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The Board of
Transport Commissioners for Canada

**JUDGMENTS, ORDERS, REGULATIONS
AND RULINGS**

(INDEX TO) VOLUME 56

from
JANUARY 1, 1966
to
DECEMBER 31, 1966

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

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OF

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Judgments, Orders, Regulations and Rulings

IN THE MATTER OF Canadian Pacific Railway Company's trains Nos. 3, 4, 13 and 14, known as "The Dominion" and related matters.

File No. 27563.479

January 7, 1966

BEFORE:

ROD. KERR, Q.C.,
H.H. GRIFFIN,
J.M. WOODARD,

Chief Commissioner.
Assistant Chief Commissioner.
Commissioner.

APPEARANCES:

K.D.M. SPENCE Q.C.,
and
R.J. MADGE
A.W. MAURO, Q.C.,
J.J. FRAWLEY, Q.C.,
W. FRASER, Q.C.,
G.R. HUNTER, Q.C.,

Counsel for Canadian Pacific
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" " Province of Alberta.
" " City of Winnipeg.
" " United Grain Growers
Limited.

ALAN SCARTH, Q.C.,

" " Canadian Co-operative
Wheat Producers.

W.J. GARDNER,
J.H. SUNSTRUM,

" " City of Moose Jaw.
" " Moose Jaw Railway
Labour Association.

D.G. BLAIR, Q.C.,

" " Province of
Saskatchewan.

J.G. ALLEY,

" " Province of British
Columbia.

M.W. WRIGHT, Q.C.,

" " Canadian Railway Labour
Executives Association.

J.J. KERR,

" " Town of Grenfell and
R.M. of Elcapo.

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and
R.B. ANDREWS
V.M. STECHISHIN
and
J.R. COPPINGER
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" *Canadian Railway Labour
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" *Division 657, Brother-
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FRANK BODIE
and
G.D. MURDOCH
A.N. GUNTER,
WILLIAM PATERSON,
W.S. KING,

" *Alberta Federation of
Labour.*

" *City of Medicine Hat.
Calgary Labour Council.*

" *Lodge 341, Brotherhood
of Locomotive Firemen
and Enginemen,
Revelstoke, B.C.*

J.I. GUEST
and
WM. GRIFFITHS
J. WALTER,

" *Province of British
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" *Brotherhood of
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Moose Jaw Chamber of
Commerce.*

E.L. PUDDEN,

" *Manitoba Urban
Association.*

A.D. BERNESKI,

" *Village of Coronach and
R.M. of Hart Butte.*

H.M. ZIGGELKOW,

" *Lakehead Chamber of
Commerce.*

V.R. STEWARDSON,

" *Port Arthur & Fort
William Liberal Riding
Associations.*

D.S. CHEADLE,

" *Schreiber Businessmen's
Organization.*

D.J. BENO,

W.E. CAVANAUGH,

R. MAY

and

Y. MARTEL

S.G. FISHER,

DOUGLAS MITCHELL,

H.J. McNEILL,

H.C. ODELL,

H.A. OLSON, M.P.,

W.E. NORTON,

LUKE FRANCIS,

J.A. SHERRITT,

MRS. J. MILLAR,

GRANT MacEWAN,

A.L. BARRON, Q.C.,

N. MALLORY,

L.H. LEWRY,

THE HON. G.B. GRANT,

H.H.P. BAKER,

MSGR. ATHOL MURRAY,

J.S. BURTON,

C.A. LIGHTFOOT,

J.M. KERR,

D.S. FISHER,

S. LASKIN,

*Representing Terrace Bay Chamber
of Commerce.*

*" Chapleau Area Chamber
of Commerce and the
Municipality of Chapleau.*

*" City of Sault Ste. Marie
and the Sault Ste. Marie
Chamber of Commerce.*

*Secretary, Manitoba Transportation
Commission.*

Mayor, Town of Virden.

Reeve, R.M. of Wallace.

*Federal Constituency of Medicine
Hat.*

Mayor, Town of Kenora.

Mayor, Town of Keewatin.

Industrial Commissioner, Kenora.

In person, North Bay.

Mayor, City of Calgary.

In person, Calgary.

Alderman, for City of North Bay.

Mayor, City of Moose Jaw.

*Minister of Highways and
Transportation for Saskatchewan.*

Mayor, City of Regina.

*Of Notre Dame College,
Saskatchewan, in person.*

In person, Regina.

Overseer, Village of Consul.

In person, Regina.

*Formerly M.P. for the Federal
Constituency of Port Arthur.*

Mayor, City of Port Arthur.

Heard at Winnipeg, Manitoba, on September 27th, 28th, 29th, 30th,
and October 1st; Vancouver, British Columbia, on October 5th;
Calgary, Alberta, on October 12th and 13th; Regina, Saskatchewan,
on October 14th and 15th; Ottawa, Ontario, on October 21st and 22nd;
Port Arthur, Ontario, on October 27th; and Ottawa, Ontario, on
November 4th, 1965.

JUDGMENT

KERR, C.C.:

This Judgment deals primarily with the principal issue for determination, namely, the future of "The Dominion". It deals with that issue under the existing law and the Board's present jurisdiction. Although it reviews a considerable volume of facts, figures and submissions presented during the hearings, it is not a review of rail passenger services generally throughout Canada nor does it purport to formulate future rail passenger policy. The MacPherson Commission has made a report and recommendations in that respect.

Canadian Pacific Railway Company has had two transcontinental passenger trains operating between Montreal-Toronto and Vancouver. One is "The Canadian", the other is "The Dominion". On August 17, 1965, the Company gave notice that "The Dominion" would be discontinued as of September 7th. The Board issued its Order No. 118362 on September 1st requiring the Company to continue to operate the train and giving notice of public hearings to inquire into the need for the train and related matters.

The Order also required the Company to furnish a statement of its reasons for discontinuing the train and a summary of the evidence that it intended to offer at the hearings, including evidence as to the revenues, expenses and passenger carryings of the train during the period January 1964 to August 1965, inclusive, evidence as to the need of the Company for locomotives for grain traffic and what locomotives are available to the Company by lease or otherwise in lieu of the locomotives of "The Dominion" for such traffic, evidence as to what displacement of railway employees will result from the discontinuance of "The Dominion", evidence as to what transportation will be offered by the Company in lieu of "The Dominion", and evidence as to the Company's reservations system and requests for space on its transcontinental trains that it was unable to meet during the said period.

The Order directed that copies of the statement of reasons and summary of evidence be furnished by the Company to the Clerk of each of the cities and towns shown as stops of "The Dominion" in Table 2 of its current time tables and to other parties who request copies.

Hearings were held at Winnipeg, Vancouver, Calgary, Regina, Ottawa, Port Arthur, and again in Ottawa, in that sequence.

In addition to the submissions and evidence of the Company, submissions were presented at the hearings on behalf of nearly all the communities, organizations and parties whose names appear in the list of appearances above. The Board also received letters from parties that did not appear at the hearings. Witnesses for the Company were Mr. R.A. Emerson, President; Mr. J.N. Fraine, Vice-President, Rail Operations; Mr. P.A. Nepveu, Assistant Comptroller;

Mr. Ian Warren, General Passenger Traffic Manager; Mr. L. R. Smith, Vice-President, Eastern Region; Mr. A. M. Fraser, Vice-President, Pacific Region; Mr. D. M. Dunlop, Vice-President, Prairie Region; Mr. G. E. Benoit, Vice-President, Atlantic Region; Mr. A. E. Brown, Senior Research Analyst; Mr. W. H. McDonald, General Manager, Merchandise Services; Mr. P. T. James, Manager of Sleeping, Dining and Parlour Car Department; and Mr. E. Thrasher, Superintendent, Canadian Pacific Express Department, Eastern Region. The transcript of the hearings comprises over 2,300 pages. Seventy-nine exhibits were filed.

At the commencement of the Winnipeg hearings Counsel for Canadian Pacific presented a motion that the hearings be postponed indefinitely, subject to renewal by the Board, and that the Company be allowed to discontinue "The Dominion" immediately in order to make the ten diesel units of the train available for other necessary traffic needs and thus directly or indirectly provide urgently needed motive power to haul grain destined for export to Russia. The motion was supported by Mr. W. J. Parker, President of Manitoba Pool Elevators and Vice-President of Canadian Co-Operative Wheat Producers, which includes the Saskatchewan Wheat Producers and the Alberta Wheat Pool; Mr. Louis Driscoll, General Manager of United Grain Growers Limited; and Mr. A. C. Leach, Chairman of the Board of Directors of Searle Grain Company, appearing as Chairman of the Executive Committee of North West Line Elevators.

The Board ruled that it would continue the hearings as planned and declined to grant the motion. However, there is no doubt that the movements of grain destined to Russia and the volume of other freight movements are straining Canadian Pacific's present and presently available motive power. I need not recite the evidence in that respect nor deal with arguments that Canadian Pacific was remiss in not foreseeing the need for additional motive power and taking appropriate measures to obtain it. I am satisfied that the release of the motive power now in use on "The Dominion" can make a useful contribution to the carriage of that other traffic. The advantages of that contribution support the case for discontinuance of the train.

History of Canadian Pacific Transcontinental Passenger Train Service During the Period 1958 to 1965 Inclusive

- 1958 - An examination of the time tables in effect in the year 1958 indicates that Canadian Pacific was operating three transcontinental passenger trains in each direction at that time. One of these consisted of head-end traffic plus coach service between Toronto - Montreal and Vancouver. At the fall change of time table coach service on this train terminated at Calgary.
- 1959 - Substantially the same service was continued up to the fall change of time table in 1959 with the through coach service to Vancouver on the

third train being restored during the summer months. On October 25, 1959, the time table shows that the third transcontinental passenger train was discontinued.

- 1960 – In the year 1960 two transcontinental trains were operated throughout the year, that is, "The Canadian" designated as trains 1 and 2 and "The Dominion" designated as trains 7 and 8. Effective with the fall change of time table on October 30, 1960, the consist of "The Dominion" was changed as follows:

Coach Service – between Montreal – Toronto and Vancouver.

Sleeping Car Service – between Montreal – Toronto and Sudbury.

– between Toronto and Sault Ste. Marie.

– between Fort William and Winnipeg.

Parlour Car and

Dining Car Service – between Montreal and Ottawa.

- 1961 – In the year 1961 the same pattern of operation continued except that during the summer months full transcontinental sleeping and dining car service, including tourist service, was provided on "The Dominion". Effective October 29, 1961, a Skyline Dome Coffee Shop was added to the consist between Montreal and Winnipeg with a notation in the time table indicating that sleeping cars would be carried on "The Dominion" during the Christmas and New Year's holiday period on dates and between such points as may be required.

- 1962 – In the year 1962 an additional passenger train was operated between Winnipeg and Vancouver from June 30th to September 5th inclusive. This service was designed to provide a connection with the Soo Line service at Winnipeg. At the end of the summer travel season in September the consist of "The Dominion" reverted to what it was in the two previous fall and winter seasons. Effective October 28, 1962, a buffet coach was added to the consist of "The Dominion" between Winnipeg and Vancouver in addition to the Skyline Dome Car operating between Montreal and Winnipeg. The time table also indicated that additional sleeping car service would be provided during the Christmas and New Year's holiday period on dates and between such points as may be required.

- 1963 – In the year 1963 the additional passenger train, between Winnipeg and Vancouver, providing connections with the Soo Line service, was again operated during the summer months from June 29th to September 4th inclusive.

Through sleeping and dining car service was also restored on "The Dominion" during the period June 27th to September 2nd inclusive.

Effective October 27th, 1963, a service similar to that which was operated during the winter of 1962 was provided.

- 1964 – In the year 1964 the Soo Line connection from Winnipeg to the west coast was operated from June 27th to September 9th inclusive, similar to the service provided during the summers of 1962 and 1963.

Through sleeping and dining car service was also restored on "The Dominion" during the period June 25th to September 7th inclusive.

On September 8th, 1964, at the completion of the summer travel season, sleeping cars were removed from "The Dominion", except for local service between Toronto – Montreal and Sudbury and between Fort William and Winnipeg. This provided a service similar to that which was operated in the fall of 1963 except that buffet lounge cars were provided between Montreal and Vancouver in place of the Skyline Dome Coffee Shop Coach to Winnipeg and buffet coach between Winnipeg and Vancouver.

- 1965 – In March 1965 the operation of the buffet lounge cars was discontinued between Sudbury and Vancouver up to June 24th of that year when full sleeping and dining car service was restored on "The Dominion".

Effective on the date on which summer service was restored head-end merchandise type traffic, including mail previously handled on this train, was given alternative movement by fast merchandise freight trains and by highway service where required.

The additional summer train to provide connection with the Soo Line service via Winnipeg was not operated in the summer of 1965.

On September 7th the consist of "The Dominion" was reduced to coach service with local sleeping car service provided between Toronto – Montreal and Sudbury and also between Fort William and Winnipeg plus a parlour buffet car between Ottawa and Montreal.

Board's Order No. 118362

Paragraph 1 of Order No. 118362 reads as follows:

"1. Canadian Pacific Railway Company shall continue to operate the present passenger service provided by "The Dominion" until the Board orders otherwise."

As previously mentioned, the consist of "The Dominion" reverted from its summer consist to its consist for the remainder of the year on September 7th. Several parties claimed that this was in violation of the Board's Order. I made the following statement in that respect at the Winnipeg hearings:

"The basic purpose of the Board's Order was to continue 'The Dominion'. Seasonal changes in the consist of the train have been made from time to time and the Board did not treat the Order, regardless of the fact that it was and is susceptible perhaps to a different interpretation, the Board did not treat the Order as precluding the company from initiating such changes, such seasonal changes."

At the Ottawa hearing on October 22nd, Mr. Wright raised the matter again and argued that the Order was susceptible of only one meaning, that it was binding on the Board and the Company and that the change in the consist of the train was in violation of the Order. He requested the Board to state its reasons if it considered that his submission is wrong, so as to enable him to test the matter, if so instructed, in the Supreme Court of Canada.

Having stated the Board's position at Winnipeg, I do not think that it is necessary to deal with the matter further in this Judgment, because the Board's decision not to interfere with the seasonal change in the train on September 7th was administrative in character and, moreover, the real issue for determination now is the future of "The Dominion", not any question as to the meaning of the Order nor whether the seasonal change was contrary to the Order.

Canadian Pacific's Case

The case made by Canadian Pacific in support of discontinuance of "The Dominion" was, briefly, that the revenues from the train have been, are and will be short, by millions of dollars annually, of the variable costs of operating it; that it will be uneconomic and inconsistent with the efficient operation of the Company's railway to continue the train; that, having regard to alternative transportation facilities, the train is not needed by the public; that the Company operates "The Canadian" and other passenger trains and, without "The Dominion", will be fulfilling its obligation under Section 315 of the Railway Act to furnish adequate and suitable accommodation for traffic; and that the motive power of "The Dominion" is needed for other traffic and will particularly aid the carriage of grain.

The Case in Opposition to Canadian Pacific

The case in opposition to Canadian Pacific was put on various grounds. The criticisms of the Company's case and of its passenger services and policies were numerous and may, for convenience and brevity, be grouped as follows:

- a) The Company's revenue and variable cost figures are unreliable; the cost figures are excessive and include items of expense that should not be included as they will not be saved by the Company by the discontinuance of "The Dominion" or, if saved by the Company, will continue to be borne by the public.

- b) The Company has discouraged patronage of its passenger trains by various means, such as by reducing its services, by giving poor service, by inconvenient schedules, by increasing fares and by refusing to sell available space on its trains; its reservations system is inadequate; its efforts to attract passengers and provide passenger services compare unfavourably with those of Canadian National Railways.
- c) Discontinuance of the train would be a breach of the Company's obligation under the 1880 contract with the Company and the Government of Canada and Chapter 1 of the Acts of 1881, which ratified the contract; grants of land and cash subsidies and income from the Company's non-rail investment should be taken into account against passenger train deficits.
- d) Public convenience, the national interest and section 315 of the Railway Act require a second Canadian Pacific transcontinental passenger train, in addition to "The Canadian", with sleepers, diners and coaches.
- e) Saskatchewan particularly needs Canadian Pacific passenger train services for local traffic needs; "The Canadian" does not satisfy such needs.
- f) British Columbia particularly needs more summer season rail passenger services.
- g) The discontinuance of "The Dominion" will leave the White River - Sudbury area without adequate and suitable rail services, particularly for mail, express and perishable traffic.
- h) The discontinuance of the train will cause serious loss and inconvenience to railway employees.
- i) The train should continue pending new railway legislation.
- j) If "The Dominion's" diesel power is needed to enable grain destined to Russia to move to the seaboard or to the lakehead, that movement must have priority over maintaining the train.
- k) If there is an excess of variable cost over revenue, it should be absorbed by the Canadian Pacific corporation as a whole and not be made a burden on the freight shipper.

Submission of the Government of British Columbia

The Government of British Columbia stated that as a general proposition it supports the railways in any attempt to discontinue unremunerative passenger services that are not required in the public interest. However, rail passenger service to and from Vancouver through the summer tourist season has not been adequate. Tourist traffic is of great importance to the economy of the Province.

Tourist spending in British Columbia is estimated at \$200,000,000 in 1965. Canadian Pacific's Exhibit 4 indicates that of the total passenger revenue of "The Dominion" in 1964, over one-half was earned in July and August. Canadian Pacific should try to get more money from its passengers before abandoning the train. The previous summer service of "The Dominion" or its equivalent is required in the summer months as a minimum, in addition to "The Canadian".

Submission of the Government of Alberta

Counsel for the Government of Alberta, in dealing with the question of motive power for hauling of grain, made clear that the position of that government is that if keeping diesel power in the service of "The Dominion" imperils the movement of grain, that movement is paramount and the train must cease.

He made the following submissions also:

Canadian Pacific's evidence as to revenue, cost and passenger carryings is inadequate; Canadian Pacific should show the precise number of dollars that "The Dominion" earned in 1964 and 1965 and the precise number of dollars spent in operating it; Alberta's position in this case is its traditional position that passenger train deficits should not be borne by the freight shipper but by the Company's shareholders; the corporation is a giant business complex which has invested its rail and non-rail profits in numerous non-rail investments and the corporation must absorb the deficits of "The Dominion"; Canadian Pacific has not met the challenge to maintain passenger services, it has downgraded the train and wants to get out of the rail passenger business; southern Alberta will be discriminated against if it has only one transcontinental passenger train as compared with those operated by Canadian National through Edmonton; air travel is a wholly unacceptable alternative to the great mass of the travelling public in Canada.

Submission of the Government of Manitoba

Counsel for the Government of Manitoba said, in respect of the motive power situation, that if there are any priorities, if the choice is either meeting the commitments under the Russian grain contract or carrying passengers on "The Dominion", then the commitments under the grain contract have a higher immediate priority.

He also placed before the Board the Government's position in respect of passenger deficits, as stated to the MacPherson Royal Commission and the Federal Government, namely, that the burden of rail passenger deficits should not be a burden to be borne by the freight shipper and that if such passenger services are maintained in the national interest the burden of any deficit therefrom should be a charge against the federal Treasury.

Submission of the Government of Saskatchewan

This is dealt with later herein.

Much of the opposition to Canadian Pacific at the hearings was in the form of submissions along similar general lines. Some of the complaints and allegations were supported by witnesses who spoke from personal knowledge of particular instances or who gave evidence of incontrovertible facts, e.g. discontinuance of passenger trains and closing of stations; and there was evidence as to population and distances and the needs of certain areas for rail services; and evidence of employees as to loss of jobs and displacement of employment. But many of the submissions, and complaints were presented as general allegations, which is understandable, as not many individual complainants will spare the time and incur the expense involved in their attendance at hearings. Canadian Pacific on the other hand presented a substantial volume of evidence as to its policy, experience and prospects in the rail passenger field and as to its revenues, costs and other relevant considerations, and much of the time of the hearings was taken up by cross-examination of the railway witnesses. Consequently, while I have outlined the submissions and complaints against the Company, the greater portion of this Judgment deals with the evidence and reasons presented by the Company in justification of its position and in meeting the general complaints and the smaller volume of individual instances of complaint.

Particulars of Canadian Pacific's Case

The Rail Passenger Problem:

On the opening day of the hearings Canadian Pacific's President, Mr. Emerson, presented a statement on the rail passenger problem and he was cross-examined at some length. He gave the following summary of his statement, which I will not paraphrase:

"Passenger service on Canadian Pacific is a subject which, in recent months, has attracted a good deal of attention, generating much more heat than light. The fact is, the company has a long and honourable record in providing rail passenger service. Further, a very earnest effort has been made in the past 20 years to retain and improve Canadian Pacific passenger train services. For those segments of passenger train operations where the possibility was anticipated of being able to provide a service which would meet its operating expenses and make some contribution to overhead costs, the most comfortable and efficient new equipment was purchased and schedules and fares were adjusted. Unfortunately, the results of these efforts over the years have been disappointing and overall these services have failed to produce sufficient revenues to meet their expenses.

We have been faced on the one hand with steadily rising material prices and labour costs in an operation which is particularly labour intensive, and on the other hand with declining revenues.

Coincidental with the development of this serious situation, has been a continuing demonstration by the travelling public of a marked and increasing preference for the private automobile on our new highways, especially for shorter trips and the speed and efficiency of the jet aircraft, particularly for longer trips. Regrettably, there appears to be no foreseeable change in this trend and, in these circumstances, we have had no alternative but to endeavour to contain and reduce these losses by progressively consolidating, substituting, reducing and eliminating those services which have shown steady deterioration in spite of the corrective measures. I can assure you that decisions to pare passenger services in this manner were taken most reluctantly.

The obligation to provide railway transportation service placed upon Canadian Pacific by the contract between the Government of Canada and the company at the time of its incorporation reads in part 'And the Company shall thereafter and forever efficiently maintain, work and run the Canadian Pacific Railway.' The word efficient in the foregoing sentence is significant. The perpetuation of a service which is not essential and is not utilized, which does not meet even the direct costs of its operation, and which therefore must be subsidized by others, is inconsistent with our responsibility to operate the railway efficiently and constitutes a misuse of the manpower and monetary resources of the company and the country.

The duty of Canadian Pacific to operate efficiently is supported by the following excerpt from the Report of the Royal Commission on Transportation:

'As a result of our investigations we have concluded that the basis for many of the complaints of inequity has been the development of the competitive environment in transportation and its effects upon a railway structure which developed in the previous monopolistic environment. One of these effects, perhaps the most important one, is the railways' continuing need of revenues to cover deficits incurred because of the apparent inability of railway management to slough off the historical, traditional and institutional obligation to provide passenger service.' (Vol. I, page 43).

Misallocation of resources resulting from continuance of uneconomic services is harmful in the long term to future stability of employment. In addition, continued operation of unprofitable rail services tends to frustrate the efforts of other forms of transportation to develop a viable operation.

It has been suggested that Canadian Pacific is acting in an irresponsible manner to the people of Canada in endeavouring to withdraw "The Dominion" from service. I should like to emphasize and reiterate that this is not so.

Rather, were we to neglect to endeavour to meet the problems involved in the uneconomic operation of passenger trains, we would, indeed, be derelict in the discharge of our responsibility to the people of this country.

The table which follows the text, Mr. Chairman, is I think self-explanatory. It shows for the years in the first section for the years 1949 to 1963 the Canadian Intercity Passenger Miles by Mode of Transport in terms of millions of passenger miles. You will note in passenger automobiles, passenger miles have risen from 15,695 million to 47,102 million in 1963. They have trebled.

Intercity Bus miles have remained approximately the same. Slightly down. Total motor vehicles have, of course, gone up two and a half times. Air miles have gone up perhaps eight times. Seven or eight times. Rail passenger miles have declined from 3,193 million to 2,070 million. The percentage distribution is given in the second section of the table. It shows, of course, a marked growth in passenger automobiles from 69½ per cent to 86 per cent. A very rapid rate of growth. With air from 1.7 per cent to 5.0 and the corresponding decline in rail from 14.1 to 3.7." (Transcript, pp. 4912 - 4915).

The following excerpts from his evidence deal with the subject in more detail:

"In an effort to meet the challenge of this new competitive environment (1946-1955) and retain passenger revenues, Canadian Pacific began a programme of modernizing its passenger equipment. This was followed up by the purchase of some of the best passenger equipment available, and concurrently, running times in transcontinental service were substantially reduced. For use on shorter runs the rail diesel car, a fine example of transportation engineering, was introduced for the purpose of improving service, enhancing passenger comfort and increasing operating efficiency. Notwithstanding the expenditure of many millions of dollars and all the efforts made, it was impossible to diminish the loss from passenger operations.

In the late 1950's, however, in the face of increasing competition, passenger carryings began to decline again, which decline has continued since then." (Transcript, p. 4893).

"In the face of rapidly rising costs, the railways, in the years preceding 1959, endeavoured to improve their revenue situation by making upward fare adjustments but action in this respect was limited by the growing competition from other modes of transport.

In more recent years fare reductions, as well as various types of fare packages, were introduced. The results hoped for in the application of these lower fares have not been realized. Attempts to improve net revenue through reduced rates have shown that additional revenues resulting from

increased patronage are not sufficient to offset the increased costs incurred in handling the traffic.

The effect of the decline in rail passenger travel made itself felt first in branch line train service. The public living in rural areas who formerly patronized the daily, bi-weekly or tri-weekly passenger trains on branch lines, found it more convenient to operate their automobiles on improved roads. Initially, as the decline in use became apparent, it was necessary to reduce the frequency of these services. This action was subsequently followed by the substitution of rail diesel cars for conventional trains in some areas and elimination of passenger trains in other areas.

As competition increased and its effect widened to embrace inter-city travel, similar action also had to be taken in respect of inter-city passenger trains and thus the pattern of decline in passenger train operations continued." (Transcript, pp. 4896-7).

"In the meantime, (following the Report of the MacPherson Royal Commission) however, Canadian Pacific has continued to endeavour to reduce the loss in providing passenger train services. This programme has consisted of elimination, reduction, substitution and consolidation of passenger trains. In a number of cases public opposition developed and protracted hearings were held by the Board of Transport Commissioners in the areas concerned before authority for discontinuance could be secured. There is a great reluctance on the part of the public to accept the fact that the railways have no duty to provide a standby service, that is, one whose revenues do not meet the expenses associated therewith, and that operation of loss passenger trains is, in fact, a misallocation and dissipation of the manpower and material resources of the company and the country as a whole, contrary to the principle enunciated so clearly by the Royal Commission." (Transcript, pp. 4902-3).

"It is not suggested that passenger train service on Canadian Pacific will immediately disappear but it is apparent that it is no longer a necessity." (Transcript, page 4903).

"Canadian Pacific is continuing to scrutinize the cost of passenger train operations in relation to revenues earned. The objective is to continue such operations involving the utilization of existing facilities only so long as revenues are sufficient to cover costs directly variable with traffic and contribute to the recovery of capital outlays made.

Canadian Pacific has accepted the challenge of efficient operation imposed under its charter and which is basic to the findings and recommendations of the MacPherson Royal Commission on Transportation." (Transcript, page 4903).

"If Canadian Pacific is to render the contribution to Canada's growth and development of which it is capable, and which is required in the national interest, it must continue to strive to eliminate waste and inefficiency. Losses resulting from railway passenger services are such that a substantial misallocation of transportation resources results. The efficient use of these transportation resources for domestic purposes, as well as for the movement of Canadian exports into world markets, under highly intensive competitive conditions, is essential to Canada's growth. From a narrower standpoint, wasteful dissipation of the Company's resources impairs its ability to remain competitive and thus to offer employment opportunities, not only to the growing number of young Canadians entering the labour market each year, but also continuity of employment to persons already in its service. Moreover, continued operation of rail passenger services at a loss impairs the ability of other forms of transportation which might be able efficiently to provide service and to grow." (Transcript, pp. 4904-5).

"In 1964, revenues derived from the operation of passenger trains on Canadian Pacific fell short of the variable cost of furnishing this service by \$26 million. Over three-quarters of this deficit is incurred by trains in transcontinental service, e.g. "The Dominion". Although virtually all passenger train service has a high degree of labour intensity and costs are therefore sensitive to wage increases, transcontinental passenger train service is particularly labour intensive." (Transcript, pp. 4906-7).

"Passenger train service is not generally operated solely for the carriage of passengers. These trains have also carried mail as well as merchandise traffic requiring premium service and perhaps perishable protection (express). As a result of the growth of Canada's highway network, including all-weather roads, and the development of more efficient and versatile highway vehicles, this traffic has, to an increasing degree, been diverted to trucks from passenger train service. The development and extension of air services has resulted in the movement of all first class mail by air as well as a marked growth in air cargo service for high class merchandise traffic. Accordingly, in recent years, the railway passenger trains have been handling primarily bulk mail and the remnants of the express-type traffic." (Transcript, pp. 4907-8).

"Concurrently, a number of technological developments working together have enabled the railways to provide transcontinental fast freight or merchandise train service schedules that are as good as, and in some cases better than, passenger trains in terms of transit time and protection of goods. The major contributing factors to the development of the fast merchandise freight train schedule are:

- the diesel locomotive
- centralized traffic control

- improved freight cars
- improved track
- use of modern methods of communication, including radio
- application of modern data processing systems.

In addition to these changes in modes of transportation, there have been changes in the handling of merchandise type traffic in terminals. Historically, l.c.l. and freight traffic have been associated with our freight sheds, which, of course, are oriented for freight train service, whereas express traffic has been associated with passenger trains and terminals. In recent years, distribution of l.c.l. traffic to local points has been by highway vehicle in place of the former method of way-freight. In recognition of this trend to highway movement of merchandise type traffic, Canadian Pacific has built modern and efficient merchandise handling terminals which are designed, located, and equipped to handle highway traffic as well as fast freight traffic. These new terminals are entirely unrelated to passenger train operations." (Transcript, pp. 4908-9).

"It should also be noted that competitive services are provided by forwarding companies utilizing our piggyback service and that pool car operators also have their traffic handled on our fast freight trains. In order to remain competitive with these other operators in respect of cut-off times at originating point, over the road elapsed times and time of availability at destination, express traffic remaining on transcontinental passenger trains was transferred to fast freight service with its allied high delivery. This transfer has been a natural development stemming from technological improvements in fast freight operations as well as in freight terminal buildings." (Transcript, page 4909).

"Arrangements for the handling of mail by fast freight train were developed with and to meet the requirements of the Post Office Department." (Transcript, page 4909).

"Before advice was received by company officers from the Government of the proposed increase in wheat sales to Russia, plans for the discontinuance of "The Dominion" were well under way, although no decision had been announced. The increased transportation demands brought about by the Russian wheat movement thus became a new factor in these considerations, and gave added impetus to the conclusion that "The Dominion" should be discontinued. However, notwithstanding this new factor, and even if there had been no sales of wheat to Russia, a decision to remove "The Dominion" would have been necessary in any event, due to the heavy losses sustained in the operation, and for the reasons cited above.

A good part of the passenger equipment used in "The Dominion" in the summer months is outmoded by present day standards, is increasingly costly

to maintain and has generally outlived its usefulness. There is, of course, no economic justification for the provision of new equipment in this service." (Transcript, pp. 4910-11).

Promotion of Passenger Traffic:

Mr. Warren was asked what Canadian Pacific has done or is doing to promote passenger traffic. He firmly claimed that the Company has done as much as any railway in the United States or Canada to promote such traffic. In support, he cited the following:

In 1955 the Company introduced the stainless steel scenic dome streamliner, "The Canadian", thereby introducing in Canada a standard of equipment and service with few equals and no superiors anywhere. Canadian Pacific also introduced in Canada stainless steel airconditioned rail diesel cars for short haul routes, and operates one of the largest fleets of that equipment on the continent.

The Company promotes the sale of passenger traffic through the media of advertising, booklets, news releases, etc. Newspaper and magazine advertising in Canada in 1965 involved 970 insertions in 48 publications, and in the United States 80 insertions in 23 publications; and there is advertising in principal overseas countries.

Since 1950 the Company has been distributing a monthly four-colour leaflet to each of the sales personnel of the principal travel agencies throughout Canada and the United States. The Company has attractive offices, staffed with competent people, throughout North America and in overseas countries, equipped to sell under one roof all of the passenger services offered by the Company; Canadian Pacific is unique in this respect.

In 1952 the Company introduced the "Will Call" service, which enables tickets to be made up in advance of the passenger's prearranged visit to the office for them, thus avoiding waiting by him.

The format and number of ticket forms has been reduced since 1958 by 79 per cent; and by 48 per cent in 1965 as compared with 1964.

The Company has aggressively solicited organized tour traffic in the United States in past years.

I refer elsewhere to Mr. Warren's evidence respecting fares policy and the Company's reservations system.

Parties at the hearings contrasted Canadian Pacific's policy and efforts with those of Canadian National Railways. Canadian National officers were not called as witnesses, but Canadian National's policy has been stated publicly on other occasions. In a passenger train case heard by the Board in 1960 it was stated on behalf of Canadian National that its objective is to operate passenger services where they can meet their costs of operation, engender the goodwill of the

travelling public and encourage passenger traffic; that where there are alternative means of transportation meeting public necessity, the Company's policy is to try to discontinue unpatronized, unnecessary, wasteful and uneconomic services; and that the burden of losses in such services is borne by the shippers and consignees and consumers of goods that move by railway freight. In the annual report of the Canadian National Railways for 1964 there is the following statement under the heading "Outlook":

"Current CN passenger policy calls for a strong effort to increase passenger sales and provide good, competitively priced passenger service in areas where actual or potential returns justify the effort. For CN, extensive market research and study of relevant social, economic and technological trends and developments point strongly towards the conclusion that, in most of the areas now being served, a properly designed and operated passenger service can be made to justify itself on economic grounds. In this respect the experience of 1964 has been quite encouraging."

More recently the Board received from Canadian National Railways a copy of the text of an address given by the President and Chairman of the Board, Canadian National Railways, Mr. Donald Gordon, C.M.G., to the Treasury Division, Association of American Railroads, in October of this year, in which he was reported as saying:

"For many years it has seemed to me that most railroads on this continent have tended to take a defeatist attitude about the possibility of providing comprehensive passenger service on a self-supporting basis. This has led to neglect of the application of modern market research and sales promotion techniques in this field. Also to a lack of interest in developing the kind of equipment and services required to satisfy today's traveller. CN, however, has been taking a positive rather than a negative attitude towards its passenger services. We have given this part of our business careful analysis and we believe it can be made self-supporting by means of a strong imaginative sales effort and the kind of service that belongs to present-day living. Perhaps because this is in contrast to the general attitude, our activities in this area have received a marked degree of publicity."

Reservations Systems:

Early in the past summer the Board directed inquiries to both Canadian Pacific and Canadian National Railways respecting their rail passenger reservations systems and subsequently directed both companies to keep a record over an agreed period of requests for reservations on their transcontinental trains that they were unable to fill. The inquiry in that respect was continuing when Canadian Pacific gave notice of discontinuance of "The Dominion". The Board enlarged the

scope of the hearings respecting "The Dominion" to include Canadian Pacific's reservations system.

In the course of the hearings several witnesses gave evidence of their personal inability to obtain reservations on Canadian Pacific trains and of difficulties and delays experienced by them in that respect. Quite a few letters containing similar complaints were received by the Board before and during the hearings.

Mr. Warren stated that Canadian Pacific's reservations system is identical with that in use by all other railways in North America; that several large railways have experimented with electronic reservations systems and have expended several millions of dollars in doing so, but they have discarded those systems and reverted to the manual system that Canadian Pacific uses, because the electronic systems that are suitable for air line traffic cannot be satisfactorily adapted for the reservation of the varieties of space in passenger trains.

A description of the more important features of the reservations system and its working may be summarized as follows:

1. There are five reservation bureaux, in Montreal, Toronto, Winnipeg, Calgary and Vancouver; and, in addition, some accommodation is allocated to sales offices at other points, such as Regina and Kamloops. The quantities and types of space assigned to the bureaux and selling offices are determined by experience and are reviewed at least twice a year. Smaller points handle their requests through the nearest bureau. The bureaux and sales offices are linked by telephone, telegraph and teletype. There is a diagram for each car to be operated, and as reservations are sold they are entered on the diagrams, the latter thus indicating what is reserved and what is available for sale. Space is sold on a "first come first served" basis.

2. Option dates are placed on all reservations sold and tickets must be purchased prior to the expiration of the options, otherwise the space is freed for sale to others. If a particular kind of space is requested, and is not available at the local bureau, endeavours are made to obtain it from another bureau. Another available kind of space may be offered. Where, for example, space is requested at Montreal for Montreal - Vancouver, the Montreal office may have space available all the way and if not it will ascertain from the other bureaux what combination of accommodation can be provided. As to apparently available but unoccupied space, it was pointed out that space sold out of Kamloops makes that space unavailable out of Vancouver for east of Kamloops, but the reason why the space is unoccupied out of Vancouver will not be apparent to a passenger boarding the train at Vancouver; similarly elsewhere.

3. The Montreal, Toronto, Winnipeg and Vancouver bureaux are equipped with "Lazy Susan" revolving diagram racks which allow for the most expeditious handling of large volumes of accommodation.

4. Beginning in 1965 the Company issued to all principal selling offices and stations twice each month in May, June and July 45-day advance forecasts of the availability of sleeping car space on "The Canadian" during the summer season.

5. In the twelve months ended July 1, 1965, duplicate sales on the trans-continental trains averaged 0.7 per day and "No Shows" 1.5 per day.

6. On several occasions since World War II and as recently as 1964, Canadian Pacific studied the pros and cons of a central reservation bureau, but the studies showed that consolidation of the bureaux would not be desirable in the light of the problems involved and their effects on the efficient handling of requests for reservations; further, a centralized reservation set-up would not be attractive from an economic viewpoint; the major United States railways continue to decentralize their reservation facilities.

In letters dated April 15th and August 19th, 1965, in reply to the Board's inquiries respecting Canadian National Railways' reservations system, that Company gave the following information:

1. Generally speaking, the reserved units on Canadian National's transcontinental trains are dispersed among the major cities en route and the reserved inventory of a car or train is held or assigned where the car or train originates. The Company has planning under way with the objective of designing a system in which the inventory of all reserved units will be centralized. The existing system has been improved in the last two years by the following measures:

- a) the reservations bureau staffs in Montreal and Toronto were almost doubled and relative increases took place in other reservations establishments; recruits were carefully selected and trained;
- b) concurrently with the increased establishments, telephone lines for the use of the public were substantially increased and direct-line office-to-office telephone circuits were established between all the principal offices in western Canada; private wire teletype circuits provide fast communication between western and eastern offices; and
- c) in Montreal the premises were enlarged and modernized in the interests of increased efficiency, and new techniques were developed and adopted; changes were also made in other cities consistent with local conditions and requirements; notably among these innovations was the introduction of "Lazy Susan" type reservation racks at Halifax, Toronto, Edmonton and Vancouver; also introduced in the Toronto bureau was an "Automatic Call Director", which channels incoming calls to vacant lines.

Canadian National acknowledged that it has difficulty in meeting the demands for accommodation, especially during the summer months and Christmas season, in which periods lengthy waiting lists build up, but said that in most

cases it is successful in offering other accommodation which is accepted by the passengers. The Company estimated that not more than ten per cent of those on the waiting lists are left without firm assignment. In 1964 it made a precise study of principal trains during July-August to determine to what extent the "No Show" problem exists and it was found that there were 239 units of space unclaimed through "No Shows", which represented an approximate revenue of \$8,600; there has been an improvement but "No Shows" still plague the Company.

Canadian Pacific filed statements showing unfilled requests for reservations on "The Canadian" in the periods September 19th - 26th, 1965 (Exhibit 11), September 19th - October 7th (Exhibit 21), October 8th - 17th (Exhibit 55). In addition, Mr. Warren testified at the Port Arthur hearing that additional reports up to October 25th were nil, except for two upper berths unfilled out of Winnipeg on October 23rd.

The statements show the unfilled processed requests, including requests by pass holders, for each of the reservations bureaux, i.e. Montreal, Toronto, Winnipeg, Calgary and Vancouver, for the various kinds of space. The totals were as follows in the period September 19th - October 25th, 1965:

UNFILLED PROCESSED RESERVATION REQUESTS SEPTEMBER 19 - OCTOBER 25, 1965

Drawing Room	0
Compartment	7
Bedroom	29
Roomette	18
Standard	
Lowers	58
Uppers	74
Tourist	
Lowers	0
Uppers	0
Coach Seats	0

Although the figures are useful they have certain limitations in so far as showing the actual and potential demand for space is concerned, as they show only requests that were processed, i.e., proceeded with by the Company. No doubt there were other inquiries for space and as to the possibility of obtaining space that for one reason or another did not result in a request that space be reserved and that the request be listed and processed. The period covered, September 19th - October 25th, also would not have as many demands for space as would the summer holiday and Christmas periods.

Canadian Pacific and Canadian National did not keep records of unfilled requests for reservations in the past. Consequently, Canadian Pacific gave figures only for the period commencing after the Board had requested that records be kept. Canadian Pacific submitted that the fact that there is unoccupied space on its trains is an indication that it is meeting demand for space.

As this is being written Canadian National's particulars of its unfilled requests for reservations are expected in the immediate future. If they reach the Board before this Judgment is completed they will be included in it, otherwise they will be added later as a supplement.

Fares

Canadian Pacific filed Exhibit 58, reproduced next, showing various increased and reduced fares as at May 1, August 1 and October 1, 1965.

ONE-WAY - PASSAGE FARES - CANADIAN PACIFIC

	<u>May 1, 1965</u>	<u>August 1, 1965</u>	<u>Oct. 1, 1965</u>
Montreal-Saint John	19.70	22.89	22.89
" -Sherbrooke	4.05	5.35	5.35
" -Sudbury	15.85 & 16.35	19.75 & 20.25	19.25 & 19.75
" -Vancouver	51.00	51.00	43.00
Toronto-London	4.40	5.75	5.75
" -Windsor	8.55	11.25	11.25
" -Sudbury	9.80	12.80	12.80
" -Vancouver	49.50	49.50	42.00
Fort William-Winnipeg	11.50 & 13.00	21.00	16.50
Winnipeg-Brandon	3.90 & 4.70	3.90 & 4.70	3.30 & 4.00
" -Regina	10.50 & 12.00	17.90	14.55 & 15.00
" -Calgary	20.00	20.00	15.00
" -Vancouver	31.50	31.50	24.00
Regina-Calgary	15.50	20.00	15.00
Medicine Hat-Lethbridge	4.30	5.60	5.60
" " -Calgary	6.65 & 8.00	8.80	8.80
Calgary-Edmonton	7.40	9.70	9.70
" -Lethbridge	4.85	6.35	6.35
" -Vancouver	19.00	19.00	14.00

NOTE: Where two fares are shown, higher fare good Friday and Sunday, lower fare good other days of week.

**Observations and findings respecting Promotion of Traffic,
Reservations Systems and Fares**

It is apparent from the submissions at the hearings and letters received by the Board that there is a widespread belief that Canadian Pacific has not taken enough positive action to attract passengers to its trains and keep its passenger services viable and that the Company wants to get out of rail passenger business. Canadian Pacific has countered with its statements that it has done as much as any railway in the United States and Canada to attract passengers, and in support thereof has pointed to the measures outlined in the evidence given by Mr. Emerson and Mr. Warren. Mr. Warren is the dean of passenger traffic men on this continent. He said that in addition to the research that went into the acquisition of "The Canadian" and RDC cars the Company is continuously in touch with all the research that is being done, particularly in the United States where conditions are more or less equivalent to those in Canada, and that he is continuously informed about the research and keeps in touch with it. Canadian Pacific also referred to the conclusions of the MacPherson Royal Commission in respect of rail passenger services.

In assessing the causes of the decline in patronage of "The Dominion", one cannot disregard the decline in rail passenger carryings elsewhere in Canada and the United States, which is generally thought to be mainly due to the improvement in highways and the increase in the number of privately owned automobiles and to a lesser extent to facilities and preference for air travel for the long distances.

The witnesses for Canadian Pacific did not dispute that Canadian National Railways is making a great effort to attract passengers to its trains by various means, including new and better trains and cars, reduced fares and very extensive advertising. It was my impression, however, that Canadian Pacific is awaiting the results of Canadian National's efforts with a firm belief that although Canadian National is increasing its passenger carryings it is also increasing its financial loss in rail passenger services.

I have indicated what Canadian Pacific has said in respect of its reservations system, that it is the standard system generally in use on railways in the United States and Canada, etc. It is not my opinion that the system cannot be improved. The Board will keep in touch with what improvements Canadian National is making and will continue to explore the matter with the objective of improving the systems. It is reasonable to conclude, from the number of complaints of inability to obtain reservations that have come to the Board's attention, that many more persons have experienced the same difficulty, as not all have written to the Board. However, it is also a fact that year in and year out Canadian Pacific and Canadian National have given reservations on their trans-continental trains to scores of thousands of passengers. It is not my belief that

Canadian Pacific has given instructions to its ticket sellers to refuse to sell available space on the trains or to discourage rail passenger travel. No evidence was given that there were any such instructions. If there were such instructions, it is inconceivable that some ticket sellers would not have exposed the situation or that in one way or another the situation would not have been brought to the attention of the Board. It appears, however, that some passenger service employees are not backward in voicing their belief that the Company is intentionally discouraging passenger patronage; also that some ticket sellers and station staff may be lacking in good training and experience and are otherwise unsuited or inefficient. A number of instances have come to the Board's attention where members of the public have experienced difficulty in obtaining information as to the time of expected arrival of trains or have been given incorrect information. Lack of staff at the points and times involved may be one of the reasons. The number of the staff at a particular place and time is related to the patronage reasonably anticipated at that place and time.

I have quoted Mr. Emerson's statement in respect of the reasons for fare increases and the experience with fare reductions. Mr. Warren also dealt with this subject. He said that the levels of fares are being tested in various parts of the country to find out which will be most productive of net revenue and that where fares were increased in some areas in September 1964 the Company's revenue position was improved in many of the areas; that the aim is to determine the rate that will produce the most favourable net revenue; rates can be so high as to diminish revenue by discouraging traffic, and they can be so low as to reduce the net by running up the cost of carrying added traffic without an adequate return in fares; Canadian Pacific endeavours to promote the volume of traffic that will cause the accommodation on the train to be occupied to the fullest possible extent on every trip; there is no compulsion upon the Company, save its own self-interest, to try to induce more people to travel by its trains; traffic potential and other conditions differ in different parts of the country and rates should be related to the specific markets they are intended to serve.

However valid the policy and reasons of Canadian Pacific concerning its fares may be, it appears to me that many people are convinced that the fare increases were introduced to discourage travel by Canadian Pacific trains. I agree that fare increases tend to discourage patronage and create an impression that they were intended to do just that. However, I accept as made in good faith Canadian Pacific's explanation that its fare adjustments were designed primarily to improve the Company's net revenue position for the trains affected and not to discourage patronage of the trains. They may, however, have an adverse effect on patronage and revenues.

I think that there can be no doubt that Canadian Pacific's efforts and desire to promote rail passenger traffic and services are not now, whatever they were in earlier years, nearly as great or as effective in increasing passenger carryings

as are the efforts of Canadian National in that respect. There is a distinct difference of opinion between the two companies as to the future potential and viability of rail passenger services and public need for them.

Janus was a Roman god of gates, particularly the arch through which the Roman armies travelled on their way to war. Janus had two faces, one to look backward, the other to look forward. In appraising the future need of the public for passenger services by various media and how that need can best be met, it is necessary to look backward at known past experience and look forward with as good judgment as it is possible to exercise. Having regard to the imponderables and uncertainties it is not surprising that there are differences of opinion as to the future of rail passenger services and as to what allocation of resources is warranted for such services.

Displacement of Employees: Findings

Canadian Pacific officers estimated that about 100 employees would be displaced if the present "Dominion" is discontinued but that most of them would be able to find other employment with the Company.

Mr. A. R. Blanchette, International Field Representative of the Brotherhood of Sleeping Car Porters, filed Exhibit 60 purporting to show that the reduction in the consist of "The Dominion" at the end of the 1965 summer season put 168 sleeping car porters out of work; and that in 1960 sleeping car porters to the number of 134 lost their jobs when the train ceased to be a sleeping car train all year.

In reply to this evidence Mr. James, Manager of Canadian Pacific's Sleeping, Dining and Parlour Car Department, said that approximately 134 sleeping car porters were furloughed in 1960 by reason of the change in "The Dominion" but that since then, owing to attrition, they have been brought back, and in 1963 the Company was again engaging permanent porters; also that, in 1965, 408 temporary employees were hired as sleeping car porters for the summer operations of "The Canadian" and "The Dominion", of which 393 were students and 15 were hired off the street; and when the summer sleepers were taken off in September, the sleeping car porter force was reduced from its summer strength as was done in previous years.

Mr. J. Brown, General Chairman of the Dining Car Service Employees, Brotherhood of Railway Trainmen, gave estimates of the dining car service job losses on "The Dominion" in 1960 and when its summer consist ended in September 1965. He also gave evidence that on certain occasions the dining car employees were overworked because of the numbers of passengers taking meals in the diners and that on occasions there were four sittings per meal. A dining car will take about 48 persons per sitting. There were times when one diner was provided when two were needed. There was evidence that about 98 per cent of the dining car summer help are students.

The number of meals served on "The Canadian" also assists in assessing the extent to which it is patronized. The Company filed Exhibit 79 showing the numbers of persons at meal sittings on "The Canadian" on each day in August 1964 and 1965, September of both years, October of both years to October 20th, and November 1964. Sometimes there were two dining cars, at other times one. The exhibit consists of eight detailed pages and I will not reproduce them here. Taking average daily totals, they show the following numbers at meal sittings:

1965		<u>B</u>	<u>L</u>	<u>D</u>	<u>B</u>	<u>L</u>	<u>D</u>	<u>B</u>
Sudbury-Vancouver								
September	1-10	191	189	192	177	189	183	174
	11-20	193	182	182	176	183	171	173
	21-30	148	139	146	148	147	150	150
Vancouver-Sudbury								
September	1-10	178	166	190	198	181	199	194
	11-20	183	168	186	186	169	184	194
	21-30	152	142	166	168	149	161	165
Sudbury-Vancouver								
August	1-10	207	208	222	199	214	189	181
	11-20	203	198	206	194	201	188	180
	21-31	200	197	200	184	190	180	171
Vancouver-Sudbury								
August	1-10	187	167	182	197	197	207	201
	11-20	186	170	194	203	194	210	204
	21-31	195	175	190	199	186	203	198
Sudbury-Vancouver								
October	1-10	175	172	169	151	158	142	150
	11-20	137	130	131	122	122	122	119
Vancouver-Sudbury								
October	1-10	138	133	140	147	125	143	144
	11-20	107	101	116	127	126	138	132
1964								
Sudbury-Vancouver								
November	1-10	89	84	85	96	98	90	86
	11-20	95	86	89	90	94	86	81
	21-30	108	101	106	80	80	74	76

1964 (cont'd)	<u>B</u>	<u>L</u>	<u>D</u>	<u>B</u>	<u>L</u>	<u>D</u>	<u>B</u>
Vancouver—Sudbury							
November 1-10	72	70	89	99	86	98	95
11-20	65	55	82	106	102	112	110
21-30	64	58	74	76	69	75	76

The discontinuance of "The Dominion" will cause displacement of employees and loss of employment. Many of those displaced will find other employment with the Company by "bumping" men with less seniority or by moving to another locality or in other ways. This is not unusual in railroading. But the fact that it is not unusual does not mitigate the disadvantages and loss that will flow from displacement.

While having regard for the displacement of employees and loss of employment and the disadvantages accompanying such displacement and loss, I am not able to hold that the Board should order continuance of the train in order to avoid such consequences, if on the merits of the case as a whole there is sufficient cause to allow the Company to discontinue the train. I am not looking at the situation from a purely legal point of view, but in that respect it is my view that Section 315 of the Railway Act, which imposes obligations on railway companies to furnish adequate and suitable accommodation for traffic, was enacted not for the benefit of the railways or for the benefit of their employees but for the benefit of the public. My view in this respect is reinforced by the conclusion of Locke J., of the Supreme Court of Canada, in *Patchett & Sons Ltd. v. Pacific Great Eastern Railway Company*, (1959) S.C.R., 271 at 298:

"The obligations imposed upon railways in British Columbia by ss. 203 and 222 of the provincial Railway Act and upon the transcontinental railways by s. 312* of the Railway Act of Canada were enacted for the protection of the interests of the general public who require the services of these carriers. They were not enacted for the benefit of the railway companies or their employees."

Passes

The Company has imposed restrictions on the use of employees' passes on "The Canadian". Pass holders must either purchase standard sleeping accommodation or pay half-fare to ride in the day coach.

The granting of passes to railway employees is within the discretion of the companies under Section 350 of the Railway Act. The Board's power in that respect is not originating, it is remedial, and confined, broadly speaking, to the prevention and removal of unjust discrimination and undue preference. *Windsor v. Detroit & Canada Tunnel Corporation*, 52 C.R.T.C. 199.

* s. 312 now s. 315.

Revenues and Costs of "The Dominion"

Canadian Pacific's cost witness, Mr. Nepveu, gave figures, as compiled for the Company, of the revenues and variable costs of "The Dominion" in 1964 when it operated for its last full calendar year with head-end cars, sleepers, diners and coaches; figures for the months January to July inclusive 1965; and figures projecting for a full twelve months the revenues and variable costs of the train if it operates as at present. (Exhibits 4 and 5)

The figures for 1964 were:

Revenues	\$11,154,234
Variable Cost	<u>20,828,166</u>
Deficit	- \$ 9,673,932

The figures for January to July 1965 were:

Revenues	\$ 5,714,342
Variable Cost	<u>10,738,266</u>
Deficit	\$ 5,023,924

The figures for January through July 1964 were:

Revenues	\$ 6,432,113
Variable Cost	<u>11,697,729</u>
Deficit	\$ 5,265,616

The figures for a full year based on a projection of the present service for that period were:

Revenues	\$ 2,852,100
Variable Cost	<u>7,732,100</u>
Deficit	\$ 4,880,000 (Ex. 5)

Reproduced next are

- (a) details of revenues of the train for 1964 and for January-July 1965, as shown in Statement 2 of Exhibit 4, consisting of 3 pages,
- (b) details of the train's variable costs for the same two periods, as shown in Statement 3 of Exhibit 4, and
- (c) a projection of revenues and variable costs of the train as presently operated for a full year.

CANADIAN PACIFIC RAILWAY

Revenues of "The Dominion"

January 1964 to July 1965, inclusive

	<u>Passenger</u>	<u>Other</u>	<u>Total</u>
1964 - January	\$ 234,436	\$708,157	\$ 942,593
February	154,881	402,937	557,818
March	226,698	546,152	772,850
April	216,462	557,545	774,007
May	238,119	597,709	835,828
June	477,273	464,283	941,556
July	1,313,613	293,848	1,607,461
August	1,261,181	422,887	1,684,068
September	335,260	567,101	922,361
October	130,266	605,464	735,730
November	111,505	674,414	785,919
December	259,489	334,554	594,043
1965 - January	213,691	624,991	838,682
February	132,711	388,180	520,891
March	121,895	563,422	685,317
April	199,255	569,454	768,709
May	172,202	529,666	701,868
June	368,261	430,029	798,290
July	1,376,268	24,317	1,400,585

Source: Company records.

CANADIAN PACIFIC RAILWAY

Passenger Revenue of "The Dominion"
January 1964 to July 1965 inclusive

	Passenger Fares	Sleeping and Parlour Car	Dining and Buffet	Total
1964 - January	\$196,642	\$ 12,350	\$ 25,444	\$ 234,436
February	128,860	9,867	16,154	154,881
March	190,276	10,931	25,491	226,698
April	184,198	10,385	21,879	216,462
May	203,491	9,429	25,199	238,119
June	370,883	41,538	64,852	477,273
July	865,822	182,996	264,795	1,313,613
August	836,905	169,114	255,162	1,261,181
September	254,702	37,295	63,263	355,260
October	99,983	8,667	21,616	130,266
November	86,672	8,143	16,690	111,505
December	208,397	16,984	34,108	259,489
1965 - January	179,233	10,858	23,600	213,691
February	109,448	8,409	14,854	132,711
March	110,137	7,492	4,266	121,895
April	189,136	8,211	1,908	199,255
May	163,157	7,419	1,626	172,202
June	299,902	27,494	40,865	368,261
July	962,417	155,113	258,738	1,376,268

Source: Company records.

CANADIAN PACIFIC RAILWAY

"Other" Revenue of "The Dominion"
January 1964 to July 1965, inclusive

	<u>Mail</u>	<u>Express</u>	<u>Miscellaneous</u>	<u>Total</u>
1964 - January	\$279,338	\$ 423,161	\$ 5,658	\$708,157
February	280,086	117,529	5,322	402,937
March	296,266	247,245	2,641	546,152
April	291,317	258,993	7,235	557,545
May	308,402	281,965	7,342	597,709
June	281,680	171,989	10,614	464,283
July	266,566	5,685	21,597	293,848
August	285,401	115,871	21,615	422,887
September	301,451	258,685	6,965	567,101
October	337,626	263,542	4,296	605,464
November	333,172	335,398	5,844	674,414
December	416,427	(92,198)	10,325	334,554
1965 - January	254,487	365,732	4,772	624,991
February	244,658	138,733	4,789	388,180
March	264,317	294,653	4,452	563,422
April	267,953	293,023	8,478	569,454
May	268,513	254,247	6,906	529,666
June	192,716	231,306	6,007	430,029
July	—	—	24,317	24,317

Source: Company records.

CANADIAN PACIFIC RAILWAY
Variable Cost of "The Dominion"

	Year 1964	Jan. — July 1965
Wages of Train and Engine Crews	\$ 2,144,904	\$ 1,117,957
Fuel	1,226,439	583,141
Water and Lubricants	116,265	61,063
Enginehouse Expenses	221,757	112,745
Train Other Expenses	1,301,549	707,341
Yard Switching	248,294	138,696
Station	425,570	249,946
Sleeping and Parlour Car	913,343	442,876
Other Transportation	778,579	402,825
Locomotive Repairs	1,387,378	711,989
Passenger Car Repairs	2,980,962	1,654,757
Dining and Buffet Service	1,035,418	407,080
Road Maintenance	1,932,657	920,473
Traffic	759,102	433,742
Pensions and Unemployment Insurance	606,511	311,430
Other General Expenses	628,678	322,811
Depreciation — Locomotives	303,412	162,943
Passenger Cars	1,033,232	558,939
Cost of Money — Road	667,224	317,782
Locomotives	434,700	233,450
Passenger Cars	1,682,192	886,280
Total Variable Cost	<u>\$20,828,166</u>	<u>\$10,738,266</u>

Source: Company records.

CANADIAN PACIFIC RAILWAY
Projection of Revenues and Variable Cost of "The Dominion"
as presently operated for a full year

REVENUES

Passenger	\$ 2,664,600
Sleeping and Parlour Car	154,200
Buffet Car	11,800
Other	21,500
Total	\$ 2,852,100

VARIABLE COST

Wages of train and engine crew	\$ 1,607,200
Fuel	461,700
Water, lubricants and enginehouse expense	196,800
Train Other Expenses	551,600
Yard switching expenses	70,400
Station Expenses	146,200
Sleeping, Parlour and Buffet Car	93,800
Other Transportation	348,500
Locomotive Repairs	662,600
Passenger Car Repairs	977,800
Road Maintenance	562,600
Traffic and General, including Pensions and U.I.C.	995,700
Depreciation — Locomotives	117,900
— Passenger Cars	177,400
Cost of Money — Road	245,500
— Locomotives	134,600
— Passenger Cars	248,000
Adjustment to current level of wage rates where 1964 unit costs were used	133,800
Total	\$ 7,732,100
Excess of Variable Cost over Revenues	\$ 4,880,000

Mr. Nepveu explained the methods which he had used in developing the figures for revenues and costs, which methods will be outlined later herein. Some passenger service figures are directly available from the accounts maintained under the Uniform Classification of Accounts prescribed for railways by

the Board of Transport Commissioners. Other categories of expense are, however, recorded in common accounts on a system basis. The Classification provides:

"The records shall be kept in such form as to permit determination of the correctness of the accounting and with sufficient particularity to show fully the facts pertaining to all entries made in the accounts. Where full information is not recorded in the general books, the entries therein shall be supported by other records in which full details shall be shown. The general book entries shall contain sufficient reference to the detail records to permit ready identification, and the detail records shall be filed in such manner as to be readily accessible for examination by representatives of the Board. Carriers are at liberty to subdivide the general and primary accounts here given."

In practice the railways maintain their accounts by regions and by divisions or areas; these accounts are consolidated into system totals at Head Office. Some accounts are subdivided as between passenger and freight service, but, as previously noted, many accounts contain expenses which are common to both services. This is inherent in rail transportation since expenses such as Station and Roadway Maintenance are incurred in order to provide both freight and passenger service; other expenses such as Yard Operation are incurred in moving traffic from one service area to another. The separation of these expenses involves various methods of allocation, and judgment must be exercised when determining the expense of a particular segment of the service such as "The Dominion".

Estimates which are prepared by the railway in order to assess the profitability of a particular service may be reduced or disallowed in part by the Board for the purpose of rendering a judgment or whether or not discontinuance of the service should be authorized. The reductions and disallowances made for this purpose would not necessarily be the same if made for purposes of a rate case or for another discontinuance case where the circumstances were different.

Some of the costs were directly assignable to "The Dominion", e.g. Crew Wages; others were developed by regression analysis; and others by using system averages, percentages and other bases. Revenues were developed by various methods also.

Railway costing is a developing art which the use of electronic computers has facilitated in recent years. It is progressively becoming more refined. The Board's staff knows the merits and shortcomings of the various methods and bases used in railway costing. The staff examines working papers of the railways, explores the costing with the railways' costing officers and makes spot checks in order to test the methods, bases, etc. used by the companies and the validity of their cost and revenue figures for Board purposes.

The Board's Economic Accounting and Costing Staff also conduct their own studies on the role of costing in the rendering of regulatory decisions. While

there has been some increase in the staff, it is still relatively small and will have to be increased if the Board will be required to determine railway deficits in passenger services, branch lines and carriage of grain for the purposes of subsidy payments recommended by the MacPherson Commission and the cost of carrying certain freight for rate purposes, as the volume of work and the need for precise cost determinations will be thereby increased. Regardless of the passage of new legislation based on the MacPherson Commission recommendations, the Board expects to further strengthen its staff in order to keep abreast of new techniques and the changing nature of the transportation pattern.

Costing methods in passenger train cases have been the subject of consideration by the Board and parties in previous cases heard by the Board and have been described in a number of its Judgments.

I do not think that it is necessary to describe here all the methods used by Canadian Pacific in this case. However, as this is the first case in which the Board has dealt with discontinuance of a transcontinental passenger train and there is more than local interest, I will set out some of the major items on which evidence was given at the hearings, and for the sake of accuracy and because it is not easy to paraphrase costing language, I will repeat the descriptions verbatim as given by Mr. Nepveu:

"Wages of Train and Engine Crews

The amount shown for this item represents the actual wages based on miles claimed by the crews in service on "The Dominion" at the rates in effect in the periods shown in the Statement, plus a provision for annual vacations and dead-heading on a percentage basis.

"Fuel

The cost of fuel was developed on the basis of miles run out by diesel units on "The Dominion", average fuel consumption of 1.5 gallons per unit mile for diesel units operated in passenger service and the average price of fuel for the System. The price of fuel for this purpose is the price at the oil refinery plus duty and foreign freight when applicable, and the cost of delivery to engines. This price does not include the cost of transportation on the Company's line.

"Train Other Expenses

This cost was first developed for total passenger service on the basis of car miles for cleaning, heating, lighting, lubricating, icing and watering, and air conditioning cars and on the basis of train miles for the other train expenses. An average cost per passenger car mile was computed and this cost was applied to the miles run out by passenger cars on "The Dominion".

"Sleeping and Parlour Car

Labour was developed on the basis of the actual wages paid to the crews assigned to sleeping and parlour cars on "The Dominion", and material was developed on the basis of the percentage of material to labour. Also included are supervisory and office expenses of the Sleeping, Dining and Parlour Car Department which were developed by applying to the labour and material costs the ratio of these expenses to the total wages and material directly assigned.

"Passenger Car Repairs

The cost of shop repairs and running repairs was developed separately for the passenger cars in service on "The Dominion" during the year 1964 and the first seven months of 1965. For shop repairs, an average monthly cost of shopping was computed for each class of car on the basis of cars shopped in recent years and the time interval between shoppings. These average costs were then multiplied by the number of cars of each class required for service on "The Dominion" to develop the cost of shop repairs for each month included in the study. The cost of running repairs was developed on the basis of the miles run out by passenger cars on "The Dominion" and the average cost of running repairs for passenger cars on the system.

"Road Maintenance

The variable cost of road maintenance for total passenger service was first developed on the basis of cost coefficients produced by means of regression analysis. An average cost per thousand gross ton miles in passenger service was computed and this cost was applied to the gross ton miles of "The Dominion".

"Traffic

A separate record is kept of passenger traffic expenses. These include the salaries and expenses of employees engaged solely in passenger service and a proportion of the salaries and expenses of employees engaged in both passenger and freight services determined on the basis of an analysis of duties. The cost of traffic expenses for "The Dominion" was developed by applying the average passenger traffic expense per dollar of passenger revenue to the passenger revenue of "The Dominion".

"Pensions and Unemployment Insurance

The amount of labour included in the variable cost of "The Dominion" was computed on the basis of percentages developed in a study of labour content of railway expenses by primary accounts. The cost of pensions and unemployment insurance for "The Dominion" was computed by applying to the amount of labour thus computed percentages of pensions and unemployment insurance to labour for the system.

"Depreciation**Locomotives:**

Locomotive depreciation was calculated by applying the straight line depreciation rate approved by the Board of Transport Commissioners for the year 1964 to the investment in the locomotives used in the operation of "The Dominion".

Passenger Cars:

Passenger car depreciation was calculated by applying the straight line depreciation rate approved by the Board of Transport Commissioners for the year 1964 to the investment in the passenger cars required for the operation of "The Dominion". The investment in the passenger cars required for the operation of "The Dominion" was computed by applying to the number of units of each class the average investment per unit for that class.

"Cost of Money**Road:**

Cost of money on variable net investment in road property was calculated by applying to the gross ton miles of "The Dominion" a unit cost per thousand gross ton miles developed in regression analysis.

Locomotives:

The cost of money for locomotives was calculated at the rate of 11.4% on the net investment in the diesel locomotives required for the operation of "The Dominion".

Passenger Cars:

The cost of money for passenger cars was calculated at the rate of 11.4% on the net investment in the passenger cars required for the operation of "The Dominion". The accrued depreciation was computed on the basis of the average attained age of passenger cars by classes to arrive at net investment. No cost of money was included for units fully depreciated."

During cross-examination of Mr. Nepveu, particular attention was directed to depreciation. Since this is a major item of expense and since some aspects of the subject, including group depreciation rates and claims under the Income Tax Act, are not well known, I will review the evidence and comment on the accounting practices in some detail.

Mr. Olson directed questions to Mr. Nepveu as to the amounts claimed for depreciation as a variable cost of "The Dominion" and as to how depreciation is treated by the Company for the purposes of the present case and for income tax purposes. Mr. Olson submitted that depreciation on the passenger cars is a

cost that will not be discontinued if the service is dropped, that the undepreciated cost of the cars will still be charged by the Company for income tax purposes, whether the train runs or not, and consequently there will be no saving in so far as the public of Canada is concerned.

Mr. Nepveu replied, in effect, that the Company follows the straight line method of calculating depreciation on its books of account, which is in accordance with the requirements of the Board, and that in determining the depreciation for income tax purposes, the capital cost allowance is based on the diminishing value method. On the straight line depreciation method, no matter how old a car still in service may be, the Company would continue to provide depreciation on it as long as the car is still in service, because of the group basis employed. On the other hand, in cases where a relatively new car is wrecked and retired from service, it is removed from the investment account and charged to accrued depreciation, less the value of the scrap, and the Company then discontinues accrual of depreciation on such car, as stipulated in the Board's Uniform System of Accounts.

In respect of depreciation, the Board requires that depreciation charges shall be computed in conformity with the group plan under the straight line method, the 'user' or unit of production method, the diminishing value method, or other methods approved by the Board. For the purpose of the group plan of depreciation accounting, depreciable asset accounts, which include property of a like nature, may be grouped and an appropriate composite depreciation rate established for each group of assets to compute the depreciation thereon. These rates are determined upon the basis of the aggregate service value and the properly weighted service lives of such classes of property, and are from time to time approved by the Board. The weighted service life reflects total group experience including some long lived assets and some with shorter than average lives. Any carrier providing depreciation on the diminishing value or other method approved by the Board, must be prepared to submit, when directed, such records of depreciable property and property retirements as will establish the service life of such property, also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable property.

The use of group depreciation and composite rates is recognized as good accounting practice by the accounting profession, and provides a practical solution to the otherwise extremely burdensome problem of maintaining accumulated depreciation records on an individual asset basis; it is particularly useful and effective when a carrier has a large number of property units of the same kind. Since actual experience results in some individual assets within a group not surviving the average period of service which has been estimated for that group, and others exceeding it, it becomes necessary by accounting methods to ensure that the Company will finally accrue in its accumulated depreciation accounts

the full amount of the cost of its capital investment in the assets which had been included in the group.

This is achieved by eliminating from the investment account and charging to the accrued depreciation account the losses due to unrecovered depreciation on prematurely retired assets, which losses are later counter-balanced by accrual of depreciation in the reserve account from assets in service which have exceeded the estimated average service life. If, as has been suggested, carriers were to cease accruing depreciation when railway cars in service had reached the average service life, it would be necessary for the railways to establish, and apply to this Board for approval of a rate in excess of the 3.88%, to take care of the losses resulting from those units which for one reason or another are retired earlier than the period of the average service life, in order to avoid an ultimate deficiency in the accrued depreciation account. Such a practice would fail to recognize the principle of averages involved in composite rates, and the necessity of full recovery of cost of investment in the accrued depreciation accounts. It should be mentioned that the Board would not approve provision of depreciation for a group of assets which would result in accruing depreciation in excess of the Company investment in that group.

Mr. Olson also asked questions as to the use by C.P.R. of the Capital Cost Allowance or diminishing value method of calculating depreciation for income tax purposes. Under this method the Company continues to claim on the undepreciated value for income tax purposes after the asset is retired, since, as the cost witness explained, 'the method does not provide for the full capital cost allowance during the life of the equipment, and there are always remaining balances'. Mr. Olson submitted that depreciation would continue for income tax purposes on the cars used on "The Dominion" if it were abandoned, and whether they were retired or not. This practice, he stated, would reduce company payments for income tax to the disadvantage of other taxpayers.

The privilege of taking depreciation on the capital cost allowance method for income tax purposes is enjoyed by all companies and is approved by the Department of National Revenue. This method permits a higher rate of depreciation than that approved by the Board, and, in the case of a railway system, including its railway cars, is fixed by regulation at 6%, to be applied to the declining depreciated value of the assets until they have been fully depreciated. This results in higher depreciation being deducted for tax purposes in the earlier years than would be permitted on the straight line depreciation method, and an extension of time in which depreciation may be taken in progressively lower amounts beyond the physical life of the asset.

In both the straight line method of depreciation used by the Board and by Canadian Pacific in determining costs, and the diminishing value method permitted for income tax purposes, a company cannot recover more than the total

investment in a group of assets. This is so under the group plan of depreciation although it may not always be clear in practice, particularly toward the end of the service life of a single unit. It is my finding that the depreciation charged in the present case is a cost incurred as a result of the operation of the train, and should be allowed notwithstanding that a different amount is permitted by the Department of national Revenue for income tax purposes, and notwithstanding that depreciation in respect of passenger cars might continue to be claimed after discontinuance of "The Dominion".

A question which the Board asks in testing the reasonableness of variable cost estimates is will this amount be fully saved in the event of discontinuance? These so-called "saveable expenses" are a minimal expense factor to be taken into account when weighing the benefit to the railway company of discontinuing a deficit operation against the public need for the continuance of such an operation. There are other variable costs which the Board could allow if it were considering the cost of continuing the operation; these include the long term variable costs associated with avoiding the further commitment of resources to a deficit operation, e.g. replacement of equipment and reconstruction of bridges at higher prices for material and labour. These costs fall within the category of financial improvement and long term betterment from discontinuance, but they are costs which I need not consider in this case unless I find that, considered by itself alone, the saving to the Company from elimination of the annual deficit is offset by the public loss and inconvenience from discontinuance of "The Dominion".

At this point I should refer to the argument that crew wages may not be saveable and that allowance should be made in revenues and in expenses for putting head-end traffic back on "The Dominion".

It was argued that crew wages on "The Dominion" were not saveable because if the train were discontinued, the crews would work on other trains and would earn wages on such other trains equivalent to what they earned on "The Dominion"; and therefore their wages on "The Dominion" are not a cost which should be included in the costs of that train when determining the amount of its deficit.

In my opinion that argument is not well founded. When "The Dominion" crews work on other trains their wages for that service are a cost of that service, a cost that is incurred for and chargeable to that service. Those wages cannot be a cost of that service and at the same time a cost of "The Dominion". The crew wages cost of "The Dominion" is eliminated when that train is discontinued, and that is the fact even where some other service thereafter utilizes the employees that were on "The Dominion".

A somewhat similar argument was made that head-end traffic transferred from "The Dominion" to fast freights will incur costs of movement by the fast freights and that the cost of its movement on "The Dominion" is not a variable

cost of that train that should be counted in determining its deficit. However, the revenues of the traffic while on the train are counted for the purpose of determining its revenue and deficit position and are offset against the costs of the train. Those costs and revenues are properly chargeable to that train while that service is performed by it. When that traffic ceases to be hauled on "The Dominion" and is transferred to fast freights, the costs and the revenues cease for "The Dominion" and both are transferred to the fast freights.

Of course, the argument is valid that head-end traffic transferred from "The Dominion" to fast freights incurs costs of movement in the fast freights and that such costs and the revenues of the traffic are relevant to the question of what savings the Company makes by transferring the traffic from "The Dominion".

Evidence was given that head-end traffic that was on "The Dominion" is being carried now in fast freights and highway services (but not necessarily the same traffic, because competitive conditions and other things influence the volume and kind of carryings); and that the cost of carrying head-end traffic in fast freights and using freight cars, instead of express cars as on "The Dominion", is less than the cost of carrying the traffic by "The Dominion", for, among other things, the average weight of an express car is between 45 and 50 tons, whereas the average weight of a box car is 23 tons. Canadian Pacific did not furnish figures of the revenues and costs of carrying head-end traffic in fast freights and highway services or the net financial benefit to the Company from the transfer of that traffic from "The Dominion".

Although figures of net benefit to Canadian Pacific from transfer of head-end traffic from "The Dominion" to other services were not given, the Board has heard numerous passenger train cases and has considerable knowledge of passenger and freight train revenues and costs and, drawing on that knowledge, the Board's staff and I are of the opinion that the net benefit to Canadian Pacific from transfer of the head-end traffic and discontinuance of "The Dominion" will be very substantial.

It is also my opinion that there is not a good case for putting head-end traffic back on "The Dominion" and operating the train as it was before June of last year, having regard to passenger carryings, the revenues and expenses of the train, public convenience and necessity, and the major development that has taken place in merchandise services and fast freights.

Neither do I think that the situation calls for the train to revert to what it was prior to 1960, when it operated all year as a conventional passenger train with coaches, diners, sleepers and head-end traffic. In the last few years of that operation it experienced declining passenger patronage, except in the summer season, to such an extent that it was changed to a full consist in the summer holiday season and a reduced consist for the remainder of the year.

In the circumstances, the Board has not found it necessary to make the intensive and lengthy studies that would be involved in determining the dollar figure of the deficit of "The Dominion" in 1964 or in any period when it had head-end traffic, and the net benefit to Canadian Pacific from the transfer of that traffic to other services.

What is required, I think, is to determine whether or not "The Dominion" should continue for all or part of the year as a passenger train without head-end traffic.

Mr. Nepveu gave the following description of the bases and methods used in developing the train's revenues:

"Passenger

For the calculation of passenger revenue, revenue passenger miles were developed for each run on the basis of the number of passengers carried, divided between through and intermediate, as reported by conductors on form IDP 352 and miles of conductor's run. The revenue passenger miles were then multiplied by the average revenue per passenger mile for the run as developed in test studies conducted periodically to determine both the revenue per passenger mile and the distance which intermediate passengers travelled on each run.

Sleeping and Parlour Car

The potential revenue from the space available on "The Dominion" was established on the basis of sleeping and parlour car fares in effect. The revenues of "The Dominion" for the period shown on page 2 of statement No. 2 were then developed by applying to the potential revenue the ratio of actual number of passengers carried to total number of spaces available.

Dining and Buffet Car

Dining and buffet car revenue was obtained from daily reports of food and beverage sales made by dining car stewards and buffet car porters.

Mail

Mail revenue is the actual revenue for the train from the carriage of mail in postal cars and in baggage cars as recorded by our Mail and Baggage Department.

Express

Express revenue was developed on the basis of occupied express car miles and average express revenue per occupied car mile for each month.

Milk

Milk revenue was developed on the basis of coupons sold by agents for transportation of milk between points served by "The Dominion".

Storage - Parcel and Baggage

Revenues from these two sources were estimated by applying to passenger revenue of "The Dominion" for each month percentages of system revenues from station and train privileges and storage - parcel and baggage to system passenger revenue for that month."

Mr. Nepveu, in cross-examination, expanded his description of passenger revenue:

"We made test studies periodically. This is being done by our auditor of passenger accounts. He takes the tickets turned in by the conductors and takes into account the cash figures, and then a detailed study is done of the mileage, of the distance between points covered by the tickets and the value of the tickets, and an average per passenger mile is arrived at this way. This reflects the level of the passenger fares and the mix of the traffic. There are all types of fares; there are reduced fares. So, those tests are made in periods which are considered representative."

"We took the revenues and, as I said, for specific tickets and cash collections on specific runs, on a sample basis, and developed from those same tickets and cash collections, and arrived for each conductor's run to an average per passenger mile. This is something that is being done regularly."

"It was not done for this specific study because otherwise we would not have been able to produce the revenues of the Dominion at least to meet the deadline that was set by the Board. So, we developed those average revenues per passenger mile and then we have the passenger carryings by conductors' runs, and we have the distance, and we developed the number of passenger miles for each conductor's run and applied the average revenue per passenger mile, which is considered representative for that run."

Mr. Nepveu also explained the method used in estimating annual revenues of "The Dominion" for the constructive year commencing September 7, 1965, as follows:

"Passenger Rail Fare

The average revenue per passenger was determined for each train for each of the fourteen conductor's runs between Montreal/Toronto-Vancouver on the basis of a one-week field survey of revenue passengers carried taken during the period September 9-17, 1965. Tickets were rated in accordance with tariffs in effect at the time the survey was made.

The average revenue so determined was then multiplied by the estimated number of revenue passengers which might be carried during the constructive year commencing September 7, 1965.

The estimated coach passenger carryings were based on the actual revenue coach passengers carried during the twelve-month period ending July 31, 1965. These actual carryings have been adjusted by the % change between revenue coach passengers carried during the one-week period Tuesday, September 7 to Monday, September 13, 1965, and those carried during a similar one-week period last year, i.e. Tuesday, September 8 to Monday, September 14, 1964. The total estimated coach carryings have been restricted to the estimated maximum coach seating capacity of the train. The number of seats available has been based on the actual number of coach seats provided in the present consist reduced by 5%, or 3 seats per coach, to accommodate children under 5. To obtain the maximum capacity, this figure has been adjusted upward by the ratio of the maximum number of revenue passengers on board at one time to the average number of revenue passengers carried per trip, as determined by the one-week field study taken in September 1965.

The estimated annual first class passenger carryings were developed on the basis of an estimate made by the Manager, S.D. & P.C. Department of an average 60% occupancy of the three sleeping car assignments: Montreal-Sudbury, Toronto-Sudbury, Winnipeg-Fort William, and an average 50% occupancy of the Montreal-Ottawa parlour car. The estimated annual first class passenger carryings was divided between revenue and pass first class passengers on the basis of the division experienced in each of the above areas during the year ending July 31, 1965. No adjustment was made in these estimates for reductions in fares which become effective October 1, 1965.

"Sleeping and Parlour and Buffet Car Revenues

The estimated annual sleeping car and parlour car revenues are based on an average 60% occupancy of the sleeping cars and 50% occupancy of the parlour cars.

Buffet revenues were estimated by the Manager, S.D. & P.C. Department on the basis of patronage experienced during the period September 10-15, 1965.

"Baggage Department Revenues

The estimated annual excess baggage car earnings were developed by projecting the earnings during the survey week over a full year."

Passenger Carryings

Canadian Pacific filed several statements showing revenue passenger carryings on "The Dominion" as it now is and as it was in 1964 and the seven months January-July 1965.

Statement No. 3 to Exhibit 25, showing the carryings by conductor's runs between various cities, is reproduced next. In 1964 the carryings ranged from a low average of about 65 per day between Sudbury-North Bay to a high of about 130 between Toronto-Sudbury. The figures include the peak summer traffic. These carryings reflect passengers on board during all or part of a conductor's run; through passengers would be counted two or more times if they travelled over more than one conductor's run.

Statement no. 3

CANADIAN PACIFIC RAILWAY

Revenue Passengers Carried on "The Dominion"
by Conductors Run

	Year <u>1964</u>	<u>Seven Months January-July</u>	
		<u>1965</u>	<u>1964</u>
Westward			
Toronto - Sudbury	37,437	18,041	23,311
Montreal - Ottawa	43,595	23,057	26,241
Ottawa - North Bay	31,445	15,895	18,829
North Bay - Sudbury	24,060	12,270	14,232
Sudbury - Chapleau	34,606	18,658	20,109
Chapleau - Fort William	39,533	21,014	23,001
Fort William - Winnipeg	33,843	17,453	19,945
Winnipeg - Brandon	31,434	17,253	17,997
Brandon - Moose Jaw	43,861	23,720	24,936
Moose Jaw - Medicine Hat	36,162	19,434	20,736
Medicine Hat - Calgary	33,779	17,397	18,599
Calgary - Field	28,501	14,553	16,584
Field - Kamloops	28,149	14,459	15,463
Kamloops - Vancouver	29,558	15,341	16,371
Eastward			
Vancouver - Kamloops	28,531	12,772	15,355
Kamloops - Field	26,243	11,792	13,711
Field - Calgary	30,098	12,914	15,706
Calgary - Medicine Hat	35,305	16,027	18,357
Medicine Hat - Moose Jaw	36,214	17,290	18,343
Moose Jaw - Brandon	45,895	22,603	24,069
Brandon - Winnipeg	35,232	16,529	17,672
Winnipeg - Fort William	38,481	17,639	20,108
Fort William - Chapleau	39,954	18,987	20,675

**Revenue Passengers Carried on "The Dominion"
by Conductors Run**

	Year <u>1964</u>	Seven Months January–July <u>1965</u>	<u>1964</u>
Eastward (cont'd)			
Chapleau – Sudbury	36,264	16,834	18,302
Sudbury – North Bay	23,877	10,977	13,546
North Bay – Ottawa	28,901	12,409	16,547
Ottawa – Montreal	26,336	12,453	14,574
Sudbury – Toronto	47,423	20,904	27,918

Note: Compiled from data reported by conductors in Passenger Train Report, Form IDP 352.

Exhibit 51, reproduced next, shows revenue carryings of the train with its present consist, on a conductor's run basis, for the period September 9th to October 8th of 1965. They show averages per trip and equivalent per train mile. The averages range from a low of 10.4, Calgary–Field, to a high of 70.1, Montreal–Ottawa. The period is one in which carryings would be less than in some other months, particularly in the prairie region where harvesting was under way.

**Summary Statement of Revenue Passengers Carried Trains 3-13 and 4-14
Between Montreal—Toronto and Vancouver, for 28 days during Period
September 9 to October 8, 1965, Showing:**

(A) Average Number of Revenue Passengers Carried Per Trip and

(B) Equivalent Number of Revenue Passengers Carried Per Train Mile

Train Run	Train 3-13		Train 4-14		Trains 3-13 & 4-14	
	Average Per Trip	Equivalent Per Train Mile	Average Per Trip	Equivalent Per Train Mile	Average Per Trip	Equivalent Per Train Mile
Montreal	(A)	(B)	(A)	(B)	(A)	(B)
Ottawa	61.2	59.3	79.0	68.6	70.1	64.0
North Bay	32.4	24.1	25.4	21.4	28.9	22.8
Sudbury	25.2	24.5	20.8	20.0	23.0	22.3
Toronto	30.6	26.7	39.4	36.3	35.0	31.5
Sudbury	45.3	34.2	35.5	28.2	40.4	31.2
Chapleau	48.4	18.2	40.4	14.7	44.4	16.5
Fort William	19.1	15.9	18.1	13.8	18.6	14.8
Winnipeg	19.7	18.5	17.7	16.7	18.7	17.6
Brandon	28.5	19.1	21.6	13.2	25.1	16.1
Moose Jaw	20.5	17.7	12.0	10.6	16.3	14.1
Medicine Hat	18.2	17.4	12.1	11.3	15.1	14.4
Calgary	12.8	10.7	8.0	6.0	10.4	8.4
Field	15.4	10.5	7.0	4.6	11.2	7.5
Kamloops	21.8	18.6	12.4	8.0	17.1	13.3
Vancouver						

Exhibit 52 shows recent long distance carryings, e.g. Montreal and Toronto to Winnipeg and west on "The Dominion". They were very few and as there is no serious claim that the present train is attractive for those distances I will not enumerate them.

Exhibit 53 shows sleeping and parlour car carryings in the period September 9th to October 8th of 1965 on the sections where such cars are operated in the train, i.e. Montreal-Ottawa, Toronto-Sudbury, Montreal-Sudbury and Fort William-Winnipeg. They average from 3.3 to 12.1 passengers per trip.

Exhibit 54 purports to show what the number of revenue passengers entraining and detraining on "The Dominion" in the period September 9th-October 7th, 1965 at stations on the Brandon-Medicine Hat run would have been if the train were operated between Brandon and Medicine Hat only, i.e. counting only local passengers. The statement consists of 16 pages. The highest daily average number of revenue passengers entraining or detraining in any week was 8.9 between Brandon and Moose Jaw.

Mr. Warren gave evidence that in July 1965 there was a total of 3,798 first class through passengers eastbound ex-Vancouver on "The Dominion" and of that number 2,334 were organized tour passengers. Westbound ex-Winnipeg in July, the first class carryings on the train were 4,282, of which 1,557 were organized tour passengers. In the same month coach tour passengers eastbound ex-Vancouver were 2,401, of which 390 were organized tour passengers. Westbound ex-Winnipeg coach tour passengers were 4,799, of which 297 were organized tour passengers. Organized tours also result in tourists travelling independently of the tours, thereby adding about 20 per cent to the tour carryings, according to Mr. Warren. The totals, first class and coach, were 6,199 eastbound ex-Vancouver and 9,081 westbound ex-Winnipeg. This was for the month of July 1965. Deducting the organized tour passengers and the peripheral traffic resulting from the organized tours the daily averages of revenue passengers on "The Dominion" in July were: eastbound ex-Vancouver 32 first class and 65 coach; westbound ex-Winnipeg 74 first class and 145 coach. "The Canadian" would take care of some of these in the absence of "The Dominion" and, in Mr. Warren's opinion, most of the summer tourist traffic would go to Canadian National Railways. In previous years Canadian Pacific aggressively solicited this tour traffic but does not intend to solicit it in future.

Mr. Warren also said that "The Canadian" is rarely filled to capacity even during the summer months. He gave the following examples of percentage of capacity occupied:

In July, 1965	west out of Sudbury	80%
	west out of Winnipeg	78%
	west into Vancouver	71%
	east out of Vancouver	71%

In July, 1965, (cont'd)	east out of Calgary	81%
	east out of Winnipeg	78%
In November, 1964,	west out of Sudbury	56%
	west out of Winnipeg	56%
	west into Vancouver	48%
	east out of Vancouver	42%
	east out of Calgary	53%
	east out of Winnipeg	56%

Extra trains are operated for Christmas traffic.

Effective September 7, 1965, sixteen new stops were added to "The Canadian" as flag stops for revenue passengers, and restrictions that had applied on certain stops of that train were removed. The objective was to accommodate points formerly served by "The Dominion". To make those additional stops the scheduled elapsed time of "The Canadian" has been increased one hour and fifteen minutes westbound and one hour and ten minutes eastbound.

If that additional running time is the only downgrading that "The Canadian" will suffer, it will not amount to much, in my opinion. Experience may show greater detriment, but I do not expect that the attraction and patronage to "The Canadian" will be noticeably worsened by reason of the increase in running time. "The Canadian" will, I think, continue to be a very desirable and heavily patronized train, unless it becomes overcrowded and overextended with too many cars and not enough dining facilities.

Mr. Warren also said that coaches on "The Canadian" are filled to capacity on very few days between very few points. As an example, he said that, on the day he gave evidence at Winnipeg, "The Canadian" had 207 coach seats – but ex-Calgary there were only 23 coach passengers. He considers that the schedule of "The Canadian" will take care of the sleeping car traffic between Montreal–Sudbury, Toronto–Sudbury and Fort William–Winnipeg which is now using "The Dominion".

He added that the equipment generally in use on "The Dominion" is heavy-weight and out of date, and that Canadian Pacific does not have extra stainless steel equipment and mechanically air-conditioned cars to operate a second train to the standard of "The Canadian".

Submission of the Government of Saskatchewan:

Reply of Canadian Pacific: Findings and Conclusions Thereon

The Government of Saskatchewan opposed the discontinuance of "The Dominion" in Saskatchewan but said that it was in no position to comment upon the effects of discontinuance of the train in other parts of Canada, and it limited its submission to the request that local passenger service be maintained on the main line of Canadian Pacific in Saskatchewan, at least equivalent to the service

now provided by "The Dominion" and that the service be adapted, if possible, more to the needs of the public in Saskatchewan. It suggested a dayliner (railiner).

In support of its request the Government pointed to the fact that a large proportion of the province is served by Canadian Pacific's main line, that more than 217,000 people reside in the cities, towns, villages and rural municipalities traversed by the line and that the whole southern part of Saskatchewan with a population of approximately 426,000 is tributary to the line; that "The Dominion" has 15 stopping places in Saskatchewan; that "The Canadian" offers no acceptable alternative to Saskatchewan residents for local travel, because it moves through the province late at night; that the volume of passenger carryings on "The Dominion" in 1964 was: westbound, Brandon-Moose Jaw 43,861, Moose Jaw-Medicine Hat 36,162; eastbound, Medicine Hat-Moose Jaw 36,214, Moose Jaw-Brandon 45,895; and that the abandonment of local passenger service will cause hardship and inconvenience to the people in Saskatchewan who use "The Dominion".

In reply Canadian Pacific referred to the fact that the Trans-Canada Highway is roughly parallel and adjacent to the Canadian Pacific line all the way through the province and that the passenger figures above referred to include tour passengers. The Company also filed Exhibits 45 and 46 giving estimates of revenues and expenses of a dayliner if one were operated. Exhibit 45 shows estimated annual revenues of \$49,900, costs of \$441,800 for one RDC unit, and a resulting deficit of \$391,900. Exhibit 46 shows estimated costs of a two-unit RDC operation of \$698,322. The Company also pointed to the small number of passengers on "The Dominion" in Saskatchewan in September 1965 and referred to previous experience with a dayliner in Saskatchewan.

Counsel for Saskatchewan argued in reply that the Company's revenue figures for the proposed dayliner are underestimated and that the costs are overestimated; that additional carryings could be stimulated by a service if it were provided at convenient times and properly promoted; that any actual deficit would be less than the deficit of the present operation and would be so small as to be balanced against the greater inconvenience to the public that would result from complete termination of the service.

The Board's staff has studied the exhibits in respect of a Brandon-Medicine Hat service and has secured additional detail from the Company on the methods used to estimate revenues and expenses.

For the survey period, September 9th to October 7th, 1965, the passengers on the trains between Brandon and Medicine Hat were counted and the percentage of these passengers who would have used a local Brandon-Medicine Hat service was determined. This percentage was applied to the total passengers carried between Brandon and Medicine Hat for the 12-month period August 1, 1964, to July 31, 1965, excluding special parties.

In my opinion there are two reasons why this method might indicate a lower estimate of travel on a local service than what would actually be experienced, a) the harvest season could restrict the percentage of local travel, and (b) a revised schedule could attract some extra passengers in areas where "The Dominion" travels at night. However, I would not expect these two factors to influence the estimate to a major degree.

The passenger revenue was calculated by multiplying the number of local passengers by the average revenue earned per local passenger during the survey period. I would expect this average revenue per local passenger for the survey period to be reasonably representative of the average to be earned during a 12-month period. The estimated number of local passengers multiplied by the average revenue per passenger indicated about \$50,000 annual revenue from the proposed service.

This estimate of \$50,000 might, at first glance, appear low in relation to total revenues on "The Dominion". A study of the carryings, however, indicates that local passengers represent less than 20% of the total passengers on the through trains and their average length of trip is shorter. If there were one-fifth local passengers travelling one-half of the distance, they would contribute only about one-tenth of the passenger revenue earned on a through train, i.e. \$50,000 vis-à-vis \$500,000. I do not consider the estimate of \$50,000 local passenger revenue to be unreasonable but, as aforementioned, it could be somewhat low. I would not, however, expect it to come up to more than \$75,000 to \$100,000 annually on the proposed service.

The estimated passengers on the proposed service could be accommodated in a single rail diesel car estimated by the Company to cost \$441,800 per annum to operate. While I would make some disallowances in this estimate in accordance with my aforementioned observations on the projected year 1965-66 estimates, I would not reduce the expense estimate below \$350,000 for purposes of my judgment in this case.

The disallowances include \$40,000 in respect of crew wages, but this is not because the Board disagrees with the railway method of estimating crew wages. The Company provided for the handling of checked baggage on the R.D.C. car, which would require a three-man crew. The Board, however, considers that the service could be operated without handling checked baggage thereby eliminating the need for a third member of the three-man crew which had included:

One engineman at \$16.37 per 100 miles
One conductor at \$11.90 per 100 miles
One baggage man at \$9.68 per 100 miles
Three-man crew \$37.95 per 100 miles

The distance by rail between Brandon and Medicine Hat is 523.8 miles, making total daily mileage of 1,047.6 miles, or about 382,000 miles annually.

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The crew wages at \$37.95 per 100 miles plus vacation and other allowances amounted to \$158,835 or more than three times the estimated annual revenue. Elimination of the baggage man would reduce this amount by about \$40,000, but still leave some \$118,000 annually for the wages of enginemen and conductors on the proposed service.

As noted above there are other disallowances which I would make, but these would not reduce the estimate of total annual expense below \$350,000. Even allowing for maximum revenues of \$100,000 and minimum expenses of \$350,000, the proposed R.D.C. service could be expected to lose some \$250,000 annually.

Where only one or two passenger cars are required, railiners are less costly to operate than conventional passenger trains and they have replaced such trains in some areas. But some railiners too have failed by a substantial extent to meet their costs of operation when seat occupancy was low. The Board has heard cases involving discontinuance of railiner services that were substituted for former passenger trains.

The observations and recommendations of the MacPherson Commission in respect of uneconomic rail passenger services where there is a reasonable alternative public highway between the principal points served by the railway can be related to the Saskatchewan situation.

Having regard to the size of the cities and towns and smaller centres along Canadian Pacific's main line in Saskatchewan, the contiguity of the Trans-Canada Highway, experience in respect of passenger carryings on "The Dominion" between Brandon and Medicine Hat and the trend generally towards travel by automobile and bus in preference to short and medium distance travel by rail, I am not able to find that a railiner service through Saskatchewan, as requested by the Government, would not be operated at a substantial loss or that the inconvenience to people along the line of not having local passenger train service would be such as to warrant the Board ordering Canadian Pacific to inaugurate a railiner service and bear its loss. I do not feel justified in ordering the Company to inaugurate such a new service in the circumstances.

Conclusions

I have reached the following conclusions, in addition to those previously set forth:

Grants of Land and Money; the 1880 Contract and 1881 Act

The question of the subsidies in land and money granted to the Canadian Pacific Railway Company under the 1880 contract between the Government of Canada and a syndicate that was to form the Canadian Pacific Railway Company, and the Act, 44 Victoria, Chapter 1, passed in 1881, which ratified the contract and incorporated the Company, and the question of tax exemptions, and other

grants and subsidies received by the Company, have been considered by the Board and by royal commissions on various occasions. They are referred to in the Board's Twenty-one Per Cent Judgment of March 30, 1948, 62 C.R.T.C. 1, and at greater length in the Board's Rate Base - Rate of Return Judgment of February 15, 1954, 70 C.R.T.C. 186. I have taken into consideration in this case the 1880 contract and the 1881 Act, the various grants and subsidies received by Canadian Pacific, the tax exemptions and the fact that the Company derives a large amount of income from its non-rail investment.

Whatever may be the effect of the contract and the 1881 Act or the meaning of the word "efficiently" as used therein, I do not think that an obligation or duty to continue to operate "The Dominion" or to operate a second transcontinental passenger train in addition to "The Canadian" in present circumstances is imposed by that contract or by the Act or by reason of the grants, subsidies and tax exemptions or the income from non-rail investment. Nor do I think, on the other hand, that there is an obligation on the Company to discontinue "The Dominion" or any other passenger train merely because the revenues of the train fall short of its variable costs and the train is uneconomic in that sense. The efficient operation of the railway called for by the 1880 contract is not necessarily synonymous with profitable operation of each and every train or service.

It was also argued that such deficit as there may be in the operation of "The Dominion" should be borne by the shareholders of the Company or otherwise taken care of by the proceeds from the Company's non-rail investments. In general freight rate cases the Board included revenues and expenses of passenger services in determining net rail earnings and revenue deficiencies from rail operations and the level of freight rates. The Board allowed deficits in passenger services to be compensated by freight rates and earnings in freight services. Although there were appeals from the Board's decisions to the Supreme Court of Canada and the Governor in Council, it was never held that the Board had erred in law or principle in so doing under the law as it then was and is.

The matter has also been considered by royal commissions on transportation. It is pertinent, I think, to observe here that the most recent MacPherson Royal Commission recommended that new subsidies be provided to meet passenger train deficits of Canadian Pacific. Fully aware of the grants, subsidies and tax exemptions, it did not recommend that those deficits be paid out of the proceeds of the non-rail investments of the Company or its subsidiaries or that they be borne by the shareholders of the Company.

However, the fact that the 1880 contract and the subsidies, tax exemptions and proceeds from non-rail investments do not impose an obligation or duty on Canadian Pacific to operate a second transcontinental passenger train, in addition to "The Canadian", does not answer the question whether or not such a train should be operated.

Future of the Train

Section 315 of the Railway Act imposes an obligation on railway companies to furnish adequate and suitable accommodation for the carrying of traffic and to carry all traffic offered for carriage upon the railway. In my opinion the section does not impose an obligation to operate a train where the number of passengers offering themselves for carriage and the burden to the Company of operating the train are such that any rational conclusion would have to be that it would be unreasonable as a matter of fact to expect such a train to be operated. The Board has never treated the obligation as an absolute one. The extent of the obligation imposed on railway companies by a very similar section of a provincial Railway Act was considered by the Supreme Court of Canada in the Patchett case previously cited*, where railway employees declined to work a train to serve a strike-bound plant. There was a division of opinion among the members of the Court. The majority opinion was that in the particular circumstances there was not an absolute duty upon the railway company to serve the plant. Rand J., while making it clear that the only question dealt with was the duty of the railway toward the industry in the precise situation presented, said, *inter alia*:

“Apart from statute, undertaking a public carrier service as an economic enterprise by a private agency is done on the assumption that, with no fault on the agency’s part, normal means will be available to the performance of its duty. That duty is permeated with reasonableness in all aspects of what is undertaken except the special responsibility, of historical origin, as an insurer of goods; and it is that duty which furnishes the background for the general language of the statute. The qualification of reasonableness is exhibited in one aspect of the matter of the present complaint, the furnishing of facilities: a railway, for example, is not bound to furnish cars at all times sufficient to meet all demands; its financial necessities are of the first order of concern and play an essential part in its operation, bound up, as they are, with its obligation to give transportation for reasonable charges. Individuals have placed their capital at the risk of the operations; they cannot be compelled to bankrupt themselves by doing more than what they have embraced within their public profession, a reasonable service. Saving any express or special statutory obligation, that characteristic extends to the carrier’s entire activity. Under that scope of duty a carrier subject to the Act is placed.”

The Railway Act does not lay down any policy or principle that the Board should or must follow in determining what passenger trains shall run. The policy of the Board, uniformly applied throughout Canada, has been to judge as best it can the need of the public for train services and decide whether loss and inconvenience to the public consequent upon discontinuance of train service is outweighed by the burden that continued operation of the service would impose upon

*(1959) S.C.R. 271

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the railway to such an extent as to justify discontinuance of the service. The point at which discontinuance shall be considered justifiable is a matter of sound judgment. The situation in each case calls for a decision by railway management in the first instance, but the management decision may be reviewed by the Board upon application or complaint or of its own motion. In arriving at its decision the Board takes into consideration all relevant factors, including the population and economics of the area concerned, the need of the public for train service and the kind of service given, the volume of patronage by the public and the prospects for patronage in future, alternative transportation services, revenues and expenses of the service, and the burden to the railway company of continuance of service and the effect on it of discontinuance.

In a transcontinental train case such as this, it is impossible to put a dollar amount on what loss and inconvenience will result to the public from the discontinuance of the train. The public in such case is obviously much wider than where the service is confined to local areas. Even in the case of local trains it is difficult to evaluate that loss and inconvenience in money. A decision as to whether the service is required in the public interest or by public convenience and necessity is predominantly the formulation of an opinion involving the consideration of facts and the weighing of economic, financial, social, operational and other data, and a look into the future. I use the word "necessity" in a liberal sense, not in an absolute sense. The public interest and the need of the public for "The Dominion" must be viewed here in broad perspective. There should be considered not only the need of those who find it convenient or necessary to travel by that train, but also the effect of the operation of the train on the Company.

In 1951 the Turgeon Royal Commission on Transportation suggested that the railways be allowed to practise economies in cases where operations are shown to have become substantially unnecessary or to be definitely unprofitable, especially when it is shown that reasonable service can be assured by other agencies.

This was followed by the suggestion of the Royal Commission on Canada's Economic Prospects that this Board should vigorously follow up the suggestion of the Turgeon Commission to permit more abandonment of unremunerative services, and the Commission stated that with the growth of bus and trucking services this could be done in many cases with little or no loss to the public in terms either of convenience or of cost, particularly as the roads are now increasingly being kept open and serviceable throughout the winter, and, as a corollary that the railways should not be forced to introduce new services which are economically unjustifiable.

I have referred to the findings and recommendations of the MacPherson Royal Commission.

The findings and recommendations of the royal commissions have very considerable weight and although the Board is not bound by them and some of the recommendations have not yet been implemented by legislation, I have given them the very careful consideration that they deserve.

New railway legislation in respect of rail passenger services is expected and the Board was urged to delay its determination while awaiting the legislation. The Board is bound to exercise its jurisdiction under the law as it is. I think that a case for relief has been made and that appropriate relief should be granted.

"The Dominion" as it now is, two coaches and a buffer car for the greater part of its run, falls far short of what a true transcontinental service should be. It is a night train through many communities and for this and other reasons is not well suited for local or short distance travel. It is not well patronized. Its costs will exceed its revenues by large amounts annually, using only the minimal saveable expenses of the present reduced operation.

The detailed expense items for the year 1964, when the train had head-end traffic, and for the projected year 1965-66, for the train with its present consist, were shown in Exhibits 4 and 5. All categories of expense are lower for the projected year, the total variable cost being reduced from \$20.8 million to \$7.7 million. These are the items of expense which should vary with the size of the train operation. Crew wages would decline because of fewer train miles, fuel expense because of lighter loads, enginehouse expense because of fewer miles run-out by diesel units and passenger car repairs because of fewer car miles. All such items of variable cost are lower when there is a reduction in the service units and the consist of the train. The Company's estimates of the annual deficits were \$9.7 million for the year 1964 vis-à-vis \$4.9 million for the projected operation of the train with its present consist.

As to the revenues and costs, as shown in Exhibit 5, for a 12-months operation of the train with its present consist, I would not include as a saveable expense the \$628,100 claimed by the Company as cost of money. I would also, for the purposes of this Judgment, make disallowances in other items, including road maintenance, traffic and general expenses. The Board's staff have made a general study and examination of the operation of the present train and the expenses claimed by the Company. They have done so in order to determine the amount of the saveable expenses, on a "bare bones" basis and excluding cost of money, were the train discontinued. I am in agreement with their estimate that the saveable expenses on that basis would be in the neighbourhood of \$6,000,000 and the deficit about \$3,000,000. Having regard to the magnitude of this amount, the deficit that would result annually from the continuation of the train, the passenger carryings of the train in recent years, and the nature and shortcomings of its present operation, I have not considered it necessary to require the Board's staff or myself to make the further detailed study that would be necessary in

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order to determine more precisely the items and total of allowable expenses, revenues and deficit.

In my opinion there is not sufficient reason for the continuation of "The Dominion" as it now is, or as a sleeper train, all year round.

I have already indicated that there is not a good case for putting head-end traffic back on the train and operating it as it was before June of 1965 or as it was prior to 1960.

There remains the question of summer operation, for the two and one-half months or so which is the principal holiday travelling season of the year in Canada. This is the period starting about the time when students get free of school in June and ending shortly after Labour Day in September.

The figures presented by the Company in Exhibit 4 show passenger revenues of "The Dominion" in 1964 amounting to \$477,273 in June, \$1,313,613 in July, \$1,261,181 in August, and \$355,260 in September; in 1965, \$368,261 in June and \$1,376,268 in July.

I have referred to the evidence as to passenger carryings on "The Dominion" in July 1965, ex-Vancouver and ex-Winnipeg at a time when "The Canadian" was operating to near capacity and reserved space was sold well in advance and difficulties in obtaining reservations were being experienced. Canadian Pacific says that the summer traffic on "The Dominion" was largely organized tour traffic from the United States which Canadian Pacific aggressively solicited in past years but will not solicit in future. However, there is large-scale advertising inviting tourists to visit Canada. It is traffic that is sought by Canada and is beneficial to Canada's economy. Next year is Centennial Year, with the World's Fair in Montreal and other attractions elsewhere. Tourists will want to come. Travel in Canada by Canadian residents may also be expected to increase each year in the foreseeable future as population grows. Travel by air across Canada is becoming more suitable for the public and facilities for such travel are increasing; many persons travel by bus; and there is the private automobile. But many are not able or do not want to travel by air, bus or private automobile and they prefer rail travel, particularly for the long distances that are part of Canada.

Canadian Pacific gave evidence at the hearings to the effect that it will be necessary to make heavy repairs in 1966 to 74 Tuscan Red passenger cars, if "The Dominion" will be operated with a 17-car consist in the summer, a consist similar to the 1965 summer consist, and that the cost of putting those 74 cars in operating order will be \$1,385,000. In determining the number of cars required for a 17-car train the Company included 137 cars of various types and 13 standbys. The Company said that in addition to those expenses and the cost of operating the train, there would be running repairs amounting to \$789,000, so that the total cost of passenger car repairs for 1966 would be \$2,174,000,

not including certain smaller items of cost; and that in subsequent years the remaining 66 Tuscan Red cars would require heavy repairs, as would also 5 Park cars and 5 Skyline coaches. There was evidence that heavy repairs are made at intervals of approximately five years, that in between the heavy repairs light repairs are made after three years, and that the cost of light repairs varies from \$5,000 for a baggage car to \$7,500 for a diner.

I do not question the fact that the older type passenger cars in use on "The Dominion" will have to be repaired and used again if the train repeats its 1965 summer operation and that the repairs will involve substantial expenses.

However, Canadian Pacific did not offer evidence at the hearings as to the revenues and expenses to be expected if "The Dominion" operates in the summers of 1966 and 1967 as it did in the summer of 1965. The Board consequently asked for such figures and there has been some discussion with Mr. Nepveu in that respect. In a letter dated December 24, 1965, Canadian Pacific stated in part as follows:

"1. Assuming present operation to continue in 1966 and 1967 except for summer period from the last week of June to the day following Labour Day during which "The Dominion" would be operated with full passenger consist comparable with that of the summer 1965.

	<u>1966</u>	<u>1967</u>
Revenues	\$ 5,009,000	\$ 5,009,000
Variable cost	<u>12,962,000</u>	<u>12,544,000</u>
Excess of variable cost over revenues	<u>\$ 7,953,000</u>	<u>\$ 7,535,000</u>

Revenues are based on projection included in Exhibit 5 for other than summer months and on the same volume of traffic as in 1965 for the summer period. Variable cost includes the cost of shopping 73 passenger cars in 1966 and 53 passenger cars in 1967. Depreciation and cost of money for the additional diesel units required for the summer operation are included in variable cost on a pro-rata basis for the period in which these units would be used on "The Dominion" only. Labour and material included in variable cost are at the current level of wage rates and prices respectively. No provision was made for possible increases in 1966 or 1967.

2. Assuming discontinuance of present operation at the end of 1965 and operation in 1966 and 1967 from the last week of June to the day following Labour Day only with full passenger consist comparable with that of the summer 1965.

	<u>1966</u>	<u>1967</u>
Revenues	\$2,970,000	\$2,970,000
Variable cost	<u>7,744,000</u>	<u>7,337,000</u>
Excess of variable cost over revenues	<u>\$4,774,000</u>	<u>\$4,367,000</u>

The comments made under 1 also apply to the above revenues and variable cost."

The letter also stated that the Company has no knowledge of railway passenger car equipment being built in Canada or the United States other than the special equipment under consideration in connection with the United States Federal Northeast Corridor Project and that car builders have not built passenger equipment for quite some time. The Company also gave figures of train miles, diesel unit miles, car miles and gross ton miles for the operations described above.

The amount of the annual deficit from any exclusively summer operation will be influenced by the allocation of the cost of heavy repairs. If the train operates only in the summers of 1966 and 1967 and does not operate in any subsequent year, the cost of repairs necessary for the 1966 and 1967 operation must be borne entirely by those two years in determining the deficit; but if the train operates for more than two summers, the cost of the repairs would be spread over a period longer than two years.

A preliminary estimate made by the Board's staff is that a deficit of more than \$3,000,000 each year can reasonably be expected if the train operates in the summers of 1966 and 1967 (with its 1965 summer consist) and the said heavy repairs to make ready for such operation are borne by these two years. I have no reason to doubt that a summer only operation of "The Dominion" in the next few years will result in yearly deficits in millions of dollars and that the deficits would be even greater if there is such summer operation plus the present operation for the remainder of the year.

However, against the prospective deficits must be considered such real need as there may be for the train in the light of alternative transportation facilities.

The Commissioners who heard the case are agreed that further consideration and additional information are necessary before we can decide whether the train should be operated on a summer basis. Decision on that issue will therefore be reserved pending further consideration.

The immediate decision is that the operation of the present "Dominion" may be discontinued at any time hereafter, subject to the condition that concurrently with such discontinuance the Company shall restore the service that

was given by trains 232 and 235 between Montreal and Ottawa prior to September 7, 1965. Train 232 was consolidated with train 4 on September 7th and train 235 was consolidated with train 3 on October 31, 1965. The Board's Order respecting "The Dominion" was issued on September 1, 1965. We consider that the public that was patronizing trains 232 and 235, which were operated in addition to "The Dominion", had no reason to think that the future of the service given by those local trains was in issue in the hearings in respect of "The Dominion". If the Company wishes to discontinue these trains subsequently, it may proceed by way of notice in the usual manner and upon such notice the Board will consider what action is appropriate.

Having regard particularly to the highway situation and the dependence of the area upon rail service, the Board intends to seek further information on the question whether the present 3-day per week operation of trains 417 and 418 between Sudbury and White River will be adequate after "The Dominion" is discontinued or whether there should be a 6-day operation.

An Order will go permitting Canadian Pacific to discontinue "The Dominion" in accordance with this decision.

(Sgd) ROD. KERR.
Chief Commissioner.

Ottawa, January 7, 1966.

I concur:

(Sgd) J.M. WOODARD.
Commissioner.

GRIFFIN, A.C.C.:

Due to other demands upon the Board, it has been possible for me to participate only in the hearings at Winnipeg, Vancouver, Calgary and Regina, that is, the Western hearings. It has not been possible to join in the hearings at Ottawa and Port Arthur.

I concur in the Judgment of the Chief Commissioner and Mr. Commissioner Woodard in respect of that portion of the service provided by the "Dominion" from Winnipeg West.

I am not able to adjudicate upon the evidence in respect of the service from Winnipeg to Sudbury and thence to Montreal and Toronto. I do find, however, that the "Dominion" ceased some time ago (except for the summer months) to be a "Transcontinental Service" and became a series of regional services.

Moreover, there is evidence before me upon which it is proper for me to determine the question remaining before the Board, that is, whether the "Dominion" should be operated on a summer basis. I propose to join in that decision.

In concurring in the Judgment of the Chief Commissioner and Mr. Commissioner Woodard, I must make this reservation. In formulating my opinion I have not weighed the economic or social impact upon communities. In my opinion, these are not matters to be considered and weighed by the Board in the discharge of its duties under the Railway Act.

(SGD) H.H. GRIFFIN.
Assistant Chief Commissioner.

ORDER NO. 119542

THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

FRIDAY, THE 7TH DAY OF
JANUARY, A.D. 1966

ROD. KERR, Q.C.,
Chief Commissioner.

H.H. GRIFFIN
Asst. Chief Commissioner.

J.M. WOODARD
Commissioner.

*IN THE MATTER OF Canadian
Pacific Railway Company's trains
Nos 3, 4, 13 and 14, known as "The
Dominion" and related matters.*

File No. 27563.479

UPON hearing the matter at sittings of the Board at Winnipeg, Vancouver, Calgary, Regina, Port Arthur and Ottawa, in the presence of Counsel for Canadian Pacific Railway Company and Counsel for and representatives of other parties and upon consideration of the submissions and evidence and pursuant to the Judgment herein dated January 7, 1966 –

IT IS HEREBY ORDERED that Canadian Pacific Railway Company be, and it is hereby, permitted to discontinue operation of "The Dominion" at any time hereafter in accordance with the said Judgment.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

RELATIVEMENT aux trains n°s 3, 4, 13 et 14, appelés "Le Dominion", de la compagnie de chemin de fer du Pacifique-Canadien et relativement à des questions connexes.

Dossier n° 27563.479
le 7 janvier 1966

DEVANT:

ROD. KERR, C.R.
H.H. GRIFFIN
J.M. WOODARD

*commissaire en chef
commissaire en chef adjoint
commissaire*

ONT COMPARU:

K.D.M. SPENCE }
et
R.J. MADGE }

*avocats de la compagnie de chemin
de fer du Pacifique-Canadien*

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J.J. FRAWLEY, C.R.
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" " " " d'Alberta
" " " ville de Winnipeg
" " " United Grain Growers
Ltd.*

ALAN SCARTH, C.R.

*" " " Canadian Co-operative
Wheat Producers*

W.J. GARDNER
J.H. SUNSTRUM

*" " " ville de Moose Jaw
" " " Moose Jaw Railway
Labour Association*

D.G. BLAIR,
J.G. ALLEY

*" " " province de Saskatchewan
" " " " " Colombie-
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J.J. KERR

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D.J. BENO

W.E. CAVANAUGH

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représentant la Chambre de commerce
 de Winnipeg

" la ville de Brandon et la
 Chambre de commerce
 de Brandon

" la Division 657 de la
 Fraternité des mécani-
 ciens de locomotive

" l'Alberta Federation of
 Labour

" la ville de Medicine
 Hat

" le Calgary Labour
 Council

" la Loge 341 de la
 Fraternité des chauffeurs
 et mécaniciens de loco-
 motive, Revelstoke
 (C.-B.)

" la province de Colombie-
 Britannique

" la Fraternité des méca-
 niciens de locomotive

" la Chambre de commerce
 de Moose Jaw

" la Manitoba Urban Asso-
 ciation

" le village de Coronach
 et la mun. rur. de Hart
 Butte

" la Chambre de commerce
 de Lakehead

" les associations libé-
 rales de circonscription
 de Port Arthur et de
 Fort William

" la Schreiber Business-
 men's Organization

" la Chambre de commerce
 de Terrace Bay

R. MAY
et
Y. MARTEL

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DOUGLAS MITCHELL

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*secrétaire de la Manitoba Transporta-
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*représentant l'exécutif de l'associa-
tion canadienne des
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*maire de la mun. rur. de Wallace
circonscription fédérale de Medicine
Hat*

maire de la ville de Kenora

maire de la ville de Keewatin

*commissaire à l'expansion indus-
trielle, Kenora*

en personne

maire de la ville de Calgary

en personne, Calgary

échevin de la ville de North Bay

maire de la ville de Moose Jaw

*ministre de la Voirie et les Trans-
ports de la Saskatchewan*

maire de la ville de Regina

*du Collège Notre-Dame (Sask.), en
personne*

en personne, Regina

maire du village de Consul

en personne, Regina

*ancien député de la circonscription
fédérale de Port Arthur*

maire de la ville de Port Arthur

Audiences tenues à Winnipeg (Manitoba) les 27, 28, 29, 30 septembre
et 1^{er} octobre;

à Vancouver (Colombie-Britannique) le 5 octobre;

à Calgary (Alberta) les 12 et 13 octobre;

à Regina (Saskatchewan) les 14 et 15 octobre;

Audiences tenues à Ottawa (Ontario) les 21 et 22 octobre;
à Port Arthur (Ontario) le 27 octobre; et
à Ottawa (Ontario) le 4 novembre 1965.

JUGEMENT

KERR, comm. en chef

Ce jugement traite essentiellement de la principale question à régler, soit l'avenir du "Dominion". Il traite de cette question en vertu de la loi existante et de la compétence actuelle de la Commission. Bien qu'il passe en revue un nombre considérable de faits, de chiffres et de mémoires présentés aux audiences, il n'est pas une étude générale des services de voyageurs ferroviaires de tout le Canada et il ne prétend pas formuler la ligne de conduite à appliquer à l'avenir aux services de voyageurs ferroviaires. La Commission MacPherson a fait un rapport et des recommandations à ce sujet.

Deux trains de voyageurs de la compagnie de chemin de fer du Pacifique-Canadien circulaient entre Montréal-Toronto et Vancouver. L'un était le "Canadian", l'autre le "Dominion". Le 17 août 1965, la compagnie donnait avis que le service du "Dominion" serait discontinué à compter du 7 septembre. La Commission a rendu, le 1^{er} septembre, son ordonnance n° 118362 par laquelle elle ordonnait à la compagnie de continuer d'exploiter le train et donnait avis d'audiences publiques qui seraient tenues aux fins d'enquête sur la nécessité de l'exploitation de ce train et sur des questions connexes.

L'ordonnance enjoignait en outre à la compagnie de fournir un exposé des raisons motivant la suppression du train et un résumé de la preuve qu'elle entendait présenter aux audiences, y compris des pièces montrant les recettes, les dépenses et le nombre de voyageurs transportés par ce train pendant la période allant de janvier 1964 à août 1965 inclusivement, des preuves que la compagnie a besoin des locomotives pour le transport des grains et une liste des locomotives que la compagnie peut se procurer, par location ou autrement, pour remplacer les locomotives du "Dominion" aux fins de transport des grains, un exposé indiquant le déplacement d'employés ferroviaires qui résulterait de la suppression du "Dominion", un exposé indiquant les services de transport que la compagnie offrira en remplacement de ceux du "Dominion" et un exposé concernant le système de réservation de la compagnie et les demandes de place dans les trains transcontinentaux qu'elle n'a pu satisfaire durant ladite période.

L'Ordonnance portait que la compagnie devrait fournir un exemplaire de l'exposé des raisons et un exemplaire du résumé de la preuve au greffier de chacune des villes indiquées comme étant des points d'arrêt du "Dominion" dans le tableau 2 de ses indicateurs courants et aux autres parties qui en feraient la demande.

Des audiences ont eu lieu à Winnipeg, Vancouver, Calgary, Regina, Ottawa, Port Arthur et de nouveau à Ottawa, dans l'ordre de cette énumération.

Outre les mémoires et la preuve présentés par la compagnie, des mémoires ont été présentés aux audiences au nom de presque toutes les agglomérations, organisations et parties dont les noms apparaissent sur la liste des comparutions donnée ci-dessus. La Commission a aussi reçu des lettres de parties qui n'ont pas comparu aux audiences. Suit la liste des témoins de la compagnie: M. R.A. Emerson, président; M. J.N. Fraine, vice-président, Opérations ferroviaires; M. P.A. Nepveu, contrôleur adjoint; M. Ian Warren, gérant général du trafic-voyageurs; M. L.R. Smith, vice-président, région de l'Est; M. A.M. Fraser, vice-président, région du Pacifique; M. D.M. Dunlop, vice-président, région des Prairies; M. G.-E. Benoit, vice-président, région de l'Atlantique; M. A.E. Brown, analyste de recherches senior; M. W.H. McDonald, gérant général des services des marchandises; M. P.T. James, gérant du Service de wagons-lits, wagons-restaurants et wagons-salons; et M. E. Thrasher, surintendant du Service des messageries du Pacifique-Canadien, région de l'Est. La transcription des audiences comprend plus de 2,300 pages. Soixante-dix-neuf pièces ont été déposées.

Au début des audiences de Winnipeg, l'avocat du Pacifique-Canadien a proposé une motion portant ajournement indéfini des audiences, sous réserve de rappel par la Commission, et autorisation pour la compagnie de discontinuer immédiatement l'exploitation du "Dominion" afin de libérer les dix unités diesel de ce train pour les faire servir aux besoins d'autre trafic et obtenir ainsi, directement ou indirectement, les locomotives dont elle a un besoin urgent pour le transport des grains destinés à la Russie. La motion a été secondée par M. W.J. Parker, président des Manitoba Pool Elevators et vice-président de la Canadian Co-operative Wheat Producers qui comprend les Saskatchewan Wheat Producers et l'Alberta Wheat Pool; M. Louis Driscoll, gérant général de la United Grain Growers Limited et M. A.C. Leach, président du Conseil d'administration de la Searle Grain Company qui comparaisait en qualité de président du Comité exécutif des North West Line Elevators.

La Commission a décidé que les audiences se poursuivraient comme il avait été prévu et a refusé d'agréer la motion. Toutefois, il ne fait aucun doute que le mouvement des grains destinés à la Russie ajouté aux autres mouvements de trafic exigent un emploi maximum des locomotives que possède présentement et que peut présentement se procurer le Pacifique-Canadien. Je n'ai pas besoin de réciter les témoignages qui ont été fournis à ce sujet ni de réfuter la thèse suivant laquelle le Pacifique-Canadien aurait fait preuve de négligence en ne prévoyant pas le besoin de locomotives supplémentaires et en ne prenant pas des mesures pour se les procurer. Je suis convaincu que la libération des locomotives qui servent présentement à l'exploitation du "Dominion" peut aider à effectuer le transport de cet autre trafic. Les avantages qu'apportera cet emploi des locomotives en cause plaident en faveur de la suppression du train.

Historique des trains transcontinentaux du service des voyageurs du Pacifique-Canadien durant la période allant de 1958 à 1965 inclusivement

- 1958 – Un examen des indicateurs en vigueur en 1958 indique que le Pacifique-Canadien exploitait alors trois trains de voyageurs transcontinentaux dans chaque direction. L'un de ces trains comprenait un service de trafic à l'avant plus un service de voitures ordinaires entre Toronto-Montréal et Vancouver. A compter du changement des indicateurs, à l'automne, le service de voitures ordinaires n'était plus assuré que jusqu'à Calgary.
- 1959 – Essentiellement le même service a été assuré jusqu'à la mise en vigueur des indicateurs de l'automne de 1959, le service en voitures ordinaires sur tout le parcours jusqu'à Vancouver ayant été rétabli sur le troisième train pour les mois d'été. Le 25 octobre 1959, l'indicateur révèle que le troisième train de voyageurs transcontinental a été supprimé.
- 1960 – Deux trains transcontinentaux ont circulé durant toute l'année 1960, soit le "Canadian" désigné train 1 et train 2 et le "Dominion" désigné train 7 et train 8. A compter du changement d'indicateur de l'automne, le 30 octobre 1960, la composition du "Dominion" devenait la suivante:
- | | |
|--|---------------------------------------|
| Service de voitures ordinaires | – entre Montréal-Toronto et Vancouver |
| Service de wagons-lits | – entre Montréal-Toronto et Sudbury |
| | – entre Toronto et Sault-Sainte-Marie |
| | – entre Fort William et Winnipeg |
| Service de wagons-salons et
de wagons-restaurants | – entre Montréal et Ottawa. |
- 1961 – Le même service a été assuré en 1961 sauf que durant l'été le "Dominion" a offert un service transcontinental complet de wagons-lits et de wagons-restaurants, y compris en classe touriste. Le 29 octobre 1961, un wagon panoramique doté d'un comptoir de café a été ajouté entre Montréal et Winnipeg et l'indicateur mentionnait que durant la période de Noël et du Jour de l'An, le "Dominion" offrirait des wagons-lits aux dates et entre les points où ce service serait nécessaire.
- 1962 – En 1962, un train de voyageurs supplémentaire a circulé entre Winnipeg et Vancouver du 30 juin au 5 septembre inclusivement. Ce service était destiné à assurer la correspondance avec le service du Sault, à Winnipeg. A la fin de la saison de voyage de l'été, en septembre, la composition du "Dominion" est redevenue ce qu'elle était durant les deux saisons d'automne et d'hiver précédentes. Le 28 octobre 1962, un wagon-buffet était ajouté au "Dominion" entre Winnipeg et Vancouver en plus du wagon panoramique entre Montréal et Winnipeg.

L'indicateur mentionnait aussi qu'un service de wagons-lits supplémentaire serait assuré durant la période de Noël et du Jour de l'An aux dates et entre les points où ce service serait nécessaire.

1963 – En 1963, le train de voyageurs supplémentaire entre Winnipeg et Vancouver assurant la correspondance avec le service du Sault à circulé de nouveau durant les mois d'été, soit du 29 juin au 4 septembre inclusivement.

En outre, le service de wagons-lits et de wagons-restaurants sur tout le parcours a été rétabli sur le "Dominion" pour la période allant du 27 juin au 2 septembre inclusivement.

A compter du 27 octobre 1963, le même service que durant l'hiver de 1962 a été assuré.

1964 – En 1964, le service permettant la correspondance entre la ligne du Sault et le parcours de Winnipeg à la côte ouest a été assuré du 27 juin au 9 septembre inclusivement de la même façon que durant les étés de 1962 et 1963.

Le service de wagons-lits et de wagons-restaurants sur tout le parcours a aussi été rétabli sur le "Dominion" durant la période allant du 25 juin au 7 septembre inclusivement.

Le 8 septembre 1964, à la fin de la saison de voyage de l'été, les wagons-lits ont été supprimés sur le "Dominion" sauf entre Toronto-Montréal et Sudbury et entre Fort William et Winnipeg. Le service se trouvait alors semblable à celui qui était assuré à l'automne de 1963, sauf qu'il y avait des wagons-salons-buffets entre Montréal et Vancouver à la place des voitures panoramiques dotées d'un comptoir de café jusqu'à Winnipeg et des wagons-buffets entre Winnipeg et Vancouver.

1965 – En mars 1965, le service des wagons-salons-buffets entre Sudbury et Vancouver a été discontinué jusqu'au 24 juin de la même année alors qu'un service complet de wagons-lits et de wagons-restaurants était rétabli sur le "Dominion".

A compter de la date à laquelle a recommencé le service d'été, le genre de trafic transporté dans les wagons à l'avant, y compris le courrier dont ce train faisait précédemment le service, était transporté soit par des trains de marchandises rapides soit par service routier au besoin. Le train d'été supplémentaire assurant la correspondance avec la ligne du Sault via Winnipeg n'a pas circulé durant l'été de 1965. Le 7 septembre la composition du "Dominion" se réduisait aux voitures ordinaires plus un service de wagons-lits entre Toronto-Montréal et Sudbury ainsi qu'entre Fort William et Winnipeg, plus un wagon-salon-buffet entre Ottawa et Montréal.

Ordonnance de la Commission n° 118362

Le 1^{er} paragraphe de l'ordonnance n° 118362 se lit comme suit:

“1. La Compagnie de chemin de fer du Pacifique-Canadien continuera d'exploiter le service de voyageurs actuellement assuré par le “Dominion” jusqu'à ce que la Commission en ordonne autrement.”

Comme il a été mentionné précédemment, la composition du “Dominion” a passé, le 7 septembre, de ce qu'elle était durant l'été à ce qu'elle est demeurée le reste de l'année. Plusieurs parties ont soutenu que cela constituait une violation de l'ordonnance de la Commission. A ce sujet, j'ai fait la déclaration suivante lors des audiences de Winnipeg:

“L'objet essentiel de l'ordonnance de la Commission était la continuation du service du “Dominion”. Les changements saisonniers de la composition du train ont été faits de temps à autre et bien que l'ordonnance ait été et soit peut-être sujette à interprétation différente, la Commission n'a pas eu l'intention, en la rendant, d'empêcher la compagnie de faire de tels changements, de tels changements saisonniers.”

A l'audience tenue à Ottawa le 22 octobre, M. Wright a soulevé cette question de nouveau et il a prétendu que l'ordonnance ne pouvait être interprétée que d'une façon, qu'elle engageait et la Commission et la compagnie et que le changement de composition du train était une violation de l'ordonnance. Il a demandé à la Commission d'exposer ses raisons si elle jugeait cette interprétation erronée, de façon à lui permettre de soumettre la question à la Cour suprême du Canada si on lui donne ordre de le faire.

Vu que j'ai exposé la position de la Commission, à Winnipeg, je n'estime pas nécessaire de traiter de nouveau de cette question dans le présent jugement car la décision de la Commission de ne pas intervenir relativement au changement saisonnier qui a été effectué le 7 septembre était de nature administrative et, de plus, parce que ce dont il s'agit réellement maintenant, c'est de déterminer l'avenir du “Dominion” et non pas de décider quel était le sens exact de l'ordonnance ou si le changement saisonnier était une violation de l'ordonnance.

La cause du Pacifique-Canadien

Le plaidoyer du Pacifique-Canadien à l'appui de la suppression du “Dominion” se résumait à dire que les recettes provenant de l'exploitation du train ont été, sont et seront inférieures de plusieurs millions de dollars chaque année aux frais variables d'exploitation, que la continuation de l'exploitation du train ne serait ni économique ni compatible avec l'exploitation efficace du service ferroviaire de la compagnie; que, en raison de l'existence d'autres moyens de transport, le train n'est pas indispensable pour le public; que la compagnie exploite le “Canadian” et d'autres trains de voyageurs et qu'elle remplira, sans le “Dominion”, l'obligation que lui impose l'article 315 de la Loi sur les chemins

de fer d'assurer au trafic un service suffisant et approprié et que les locomotives qui servent à l'exploitation du "Dominion" sont requises pour le transport d'autre trafic et, en particulier, pour le transport des grains.

La cause des parties qui s'opposent au Pacifique-Canadien

Les parties qui s'opposent au Pacifique-Canadien ont fait valoir des arguments très divers. Les critiques portant sur le plaidoyer de la compagnie, sur ses services de voyageurs et sur ses méthodes ont été nombreuses et peuvent, à des fins de commodité et de brièveté être groupées comme il suit:

- a) On ne peut se fier aux chiffres des recettes et des frais variables de la compagnie; les frais sont excessifs et comprennent des dépenses qui devrait être exclues parce que la suppression du "Dominion" ne réduirait pas ces dépenses ou, si la compagnie en faisait l'économie, elles devraient continuer d'être supportées par le public.
- b) La compagnie a éloigné la clientèle de ses trains de voyageurs par différents moyens, par exemple par la réduction des services, par la mauvaise qualité du service, par des horaires qui ne sont pas commodes, par l'augmentation du prix des places et par le refus de vendre des places disponibles dans ses trains; son système de réservation n'est pas satisfaisant; les mesures qu'elle prend pour attirer les voyageurs et pour assurer des services de voyageurs ont une valeur bien inférieure à celles que prennent les chemins de fer Nationaux aux mêmes fins.
- c) La suppression de ce train constituerait un manquement aux obligations que la compagnie a assumées en vertu du contrat de 1880 entre elle et le gouvernement du Canada et qui lui incombent aux termes du chapitre 1er des lois de 1881 qui ratifièrent le contrat; les concessions de terrain et les subventions ainsi que les revenus de la compagnie provenant d'investissements non ferroviaires devraient être mis en regard des déficits des trains de voyageurs.
- d) La commodité du public, l'intérêt national et l'article 315 de la Loi sur les chemins de fer exigent qu'il y ait, en plus du "Canadian", un deuxième train de voyageurs transcontinental composé de wagons-lits, wagons-restaurants et voitures ordinaires.
- e) La Saskatchewan a un besoin particulier des services de trains de voyageurs du Pacifique-Canadien pour le transport du trafic local; le "Canadian" ne satisfait pas à ces besoins.
- f) La Colombie-Britannique a particulièrement besoin de plus de services de voyageurs ferroviaires en été.
- g) La suppression du "Dominion" privera la région de White River-Sudbury de services ferroviaires suffisants et appropriés, particulièrement en ce

qui concerne le transport du courrier, des messageries et des denrées périssables.

- h) La suppression du train causera des pertes et des ennuis considérables aux employés du chemin de fer.
- i) Le train devrait continuer de circuler en attendant une nouvelle législation des chemins de fer.
- j) Si les unités diesel du "Dominion" sont requises pour transporter jusqu'à la côte ou jusqu'à la tête des lacs les grains destinés à la Russie, le mouvement de ce trafic doit avoir la priorité sur le maintien du train.
- k) Si les frais variables excèdent les recettes, la différence doit être absorbée par la compagnie du Pacifique-Canadien et non pas supportée par l'expéditeur de marchandises.

Mémoire du gouvernement de la Colombie-Britannique

Le gouvernement de la Colombie-Britannique a déclaré que, en tant que principe général, il appuie le désir du chemin de fer de discontinuer les services de voyageurs non rentables qui ne sont pas nécessaires dans l'intérêt public. Toutefois, il estime que le service de voyageurs ferroviaire à destination et en provenance de Vancouver n'a pas été satisfaisant durant les saisons de tourisme d'été. Le transport des touristes est très important pour l'économie de la province. L'argent dépensé par les touristes en Colombie-Britannique en 1965 est estimé à 200 millions de dollars. La pièce n° 4 déposée par le Pacifique-Canadien révèle que sur les recettes totales des services de voyageurs du "Dominion" en 1964, plus de la moitié a été gagnée en juillet et août. Le Pacifique-Canadien devrait essayer d'obtenir plus d'argent de ses voyageurs avant de supprimer le train. Le service assuré par le "Dominion" l'été précédent, ou son équivalent, et le service du "Canadian" représentent le minimum requis durant les mois d'été.

Mémoire du gouvernement de l'Alberta

Au sujet des locomotives requises pour le transport des grains, l'avocat du gouvernement de l'Alberta a dit clairement que le gouvernement estime que si le maintien du service du "Dominion" risque d'empêcher le mouvement des grains, ce mouvement étant de toute première importance, le train doit être supprimé.

Il a en outre fait les observations suivantes:

Les chiffres donnés par le Pacifique-Canadien pour les recettes, les frais et le nombre de voyageurs transportés sont inexacts; le Pacifique-Canadien devrait indiquer le nombre exact de dollars que le "Dominion" a gagnés en 1964 et 1965 et le nombre exact de dollars dépensés pour l'exploiter; dans le

cas présent, le gouvernement de l'Alberta garde sa position traditionnelle c'est-à-dire qu'il est d'avis que les déficits des trains de voyageurs ne devraient pas être supportés par les expéditeurs de marchandises mais par les actionnaires de la compagnie; la compagnie est une entreprise gigantesque et complexe qui convertit ses profits ferroviaires et non ferroviaires en nombreux investissements non ferroviaires et elle doit absorber les déficits du "Dominion"; le Pacifique-Canadien n'a pas réussi à maintenir les services de voyageurs, il en a diminué la qualité et il veut se débarrasser de ces services; le sud de l'Alberta sera victime d'une distinction injuste s'il n'est desservi que par un train de voyageurs transcontinental comparativement à ceux que les chemins de fer Nationaux assurent à Edmonton; pour la plus grande partie du public voyageur du Canada, le transport aérien ne peut absolument pas remplacer le transport ferroviaire.

Mémoire du gouvernement du Manitoba

Au sujet de l'insuffisance de locomotives, l'avocat du gouvernement du Manitoba a dit que s'il existe des priorités, s'il s'agit de choisir entre satisfaire aux engagements du contrat de vente de grains à la Russie et transporter les voyageurs du "Dominion", le transport des grains en exécution du contrat représente une obligation plus pressante.

Il a aussi fait part à la Commission de la position adoptée par le gouvernement du Manitoba relativement aux déficits des services de voyageurs, position qui a été exposée devant la Commission MacPherson et au gouvernement fédéral et suivant laquelle les déficits des services de voyageurs ne devraient pas être supportés par les expéditeurs de marchandises et, si de tels services continuent d'être assurés dans l'intérêt public, tout déficit en découlant devrait être supporté par le Trésor fédéral.

Mémoire du gouvernement de la Saskatchewan

Il est question de ce mémoire plus loin dans le présent jugement.

Une bonne partie de l'opposition à la cause du Pacifique-Canadien s'est exprimée dans des mémoires présentés aux audiences et dont le fond était à peu près semblable. Certaines plaintes et allégations ont été appuyées par des dépositions de témoins qui ont exposé des cas particuliers qu'ils connaissaient personnellement ou qui ont témoigné de faits qui ne faisaient aucun doute comme la discontinuation de services de trains de voyageurs ou la fermeture de gares; il y a eu des dépositions relatives aux populations et aux distances ainsi qu'aux besoins de certaines régions en matière de services ferroviaires; des employés ont fait des dépositions concernant des mises à pied et des déplacements. Un bon nombre des observations et des plaintes présentées étaient d'ordre général, ce qui s'explique facilement vu que peu de plaignants particuliers sont disposés à faire la dépense de temps et d'argent que comporterait leur présence aux audiences. En revanche, le Pacifique-Canadien a présenté un nombre

important de pièces et de témoignages concernant sa ligne de conduite, son expérience et ses prévisions en matière de services de voyageurs ferroviaires et relativement à ses recettes, à ses dépenses et à d'autres questions pertinentes de sorte qu'une grande partie du temps des audiences a été consacrée au contre-interrogatoire des témoins du chemin de fer. Par conséquent, alors que j'ai donné les grandes lignes des mémoires et plaintes présentés contre la compagnie, la plus grande partie du jugement traite de la preuve et des motifs présentés par la compagnie pour justifier sa position et pour répondre aux plaintes générales ainsi qu'aux plaintes, en nombre plus restreint, faites par des particuliers.

Détails de la cause du Pacifique-Canadien

Le problème des services de voyageurs ferroviaires

Le jour de l'ouverture des audiences, le président du Pacifique-Canadien, M. Emerson, a présenté une déclaration sur le problème des services de voyageurs ferroviaires et il a été contre-interrogé assez longuement. Il a donné le résumé ci-après de sa déclaration, lequel je n'ai pas l'intention de paraphraser.

"Le service des voyageurs du Pacifique-Canadien est un sujet qui a beaucoup attiré l'attention au cours de ces derniers mois, ce qui a fait plus de bruit que de lumière sur la question. La vérité est que la compagnie a une longue et honorable histoire en ce domaine. En outre, durant les vingt dernières années, elle a mis tout en œuvre pour essayer de maintenir et d'améliorer ses services de trains de voyageurs. Dans les secteurs du service de trains de voyageurs où il semblait possible d'assurer un service pouvant faire ses frais d'exploitation et contribuer aux frais généraux, le matériel le plus confortable et le plus efficace a été acquis et les horaires ainsi que les prix de passage ont été ajustés. Malheureusement, avec les années, le résultat de ces efforts a été décevant, ces services n'ayant pas, dans l'ensemble, rapporté assez de recettes pour couvrir les frais.

Nous avons dû faire face, d'un côté, à la hausse continue du prix des matériaux et de la main-d'œuvre dans une exploitation qui exige tout particulièrement un personnel nombreux et, de l'autre côté, à la diminution des recettes.

En même temps que s'établissait cette situation défavorable, le public voyageur manifestait une préférence marquée et croissante pour la voiture particulière roulant sur nos nouvelles voies routières, dans le cas des courts voyages surtout, et pour l'avion à réaction dans le cas des voyages à plus grande distance. Malheureusement, cette tendance ne semble pas devoir changer dans un avenir prévisible et, dans les circonstances, nous n'avons pas d'autre choix que d'essayer de minimiser ces pertes en combinant, substituant, réduisant et éliminant progressivement ces services

qui n'ont cessé de baisser en dépit des mesures prises pour les améliorer. Je puis vous assurer que c'est à regret qu'ont été prises les décisions tendant à réduire ainsi les services de voyageurs.

L'obligation d'assurer un service de transport ferroviaire imposée au Pacifique-Canadien aux termes du contrat intervenu entre le gouvernement du Canada et la compagnie au moment de son incorporation se lit, en partie, comme il suit: "Et la compagnie devra par la suite et pour toujours efficacement maintenir, exploiter et diriger le chemin de fer du Pacifique-Canadien." Le mot efficacement contenu dans cette phrase est significatif. La perpétuation d'un service qui n'est pas essentiel et qui n'est pas utilisé, qui ne fait même pas ses frais directs d'exploitation et qui, par conséquent, doit être subventionné par d'autres, est incompatible avec notre obligation d'exploiter efficacement le chemin de fer et constitue un mauvais emploi de la main-d'œuvre et des ressources financières tant de la compagnie que du pays.

Le devoir qui incombe au Pacifique-Canadien d'exploiter efficacement l'entreprise est confirmé par l'extrait ci-après du rapport de la Commission royale d'enquête sur les transports:

"A la suite de notre enquête, nous en sommes venus à la conclusion qu'un bon nombre de plaintes au sujet des inégalités avaient été engendrées par l'ampleur qu'avait prise la concurrence dans le domaine du transport et par ses répercussions sur la structure des chemins de fer qui s'était développée dans la situation monopolistique antérieure. L'un des effets, peut-être le plus important, c'est le besoin constant de recettes que les chemins de fer éprouvent pour couvrir les déficits encourus, parce que l'administration des chemins de fer ne semble pouvoir se départir des obligations historiques, traditionnelles et institutionnelles de fournir des services de voyageurs." (Vol. I, p. 43)

La mauvaise affectation des ressources qui résulte du maintien de services non économiques est nuisible à la longue à la stabilité future de l'emploi. En outre, la poursuite de l'exploitation de services ferroviaires non rémunérateurs tend à rendre vains les efforts d'autres formes de transport pour établir une exploitation viable.

On a prétendu que le Pacifique-Canadien ne se soucie pas de la population du Canada lorsqu'il essaie de supprimer le service du "Dominion". Je désire souligner et répéter qu'il n'en est pas ainsi. Au contraire, si nous néglignons de nous efforcer de résoudre les problèmes que comporte l'exploitation non économique des trains de voyageurs, c'est alors que nous ne serions pas à la hauteur de nos responsabilités à l'égard de la population du pays.

Je crois que le tableau qui suit le texte se passe d'explications. Il montre, dans la première partie, pour les années 1949 à 1963, les voyageurs-milles des services interurbains canadiens par mode de transport et en millions de voyageurs-milles. Vous constaterez qu'en ce qui concerne les voitures particulières, le nombre des voyageurs-milles a passé de 15,695 millions à 47,102 millions en 1963. Il a triplé.

Le nombre de milles des services d'autobus interurbains est demeuré à peu près le même. Il a baissé un peu. Le nombre total des véhicules à moteur a assurément augmenté, il est deux fois et demie ce qu'il était. Le nombre de milles aériens s'est multiplié par huit. Sept ou huit. Les voyageurs-milles des services ferroviaires ont baissé de 3,193 millions à 2,070 millions. La répartition en pourcentage est donnée dans la deuxième partie du tableau. Elle indique naturellement une augmentation marquée pour les voitures particulières qui ont passé de 69½ p. 100 à 86 p. 100. Un taux de croissance très rapide. Les services aériens ont passé de 1.7 p. 100 à 5 p. 100 et le déclin correspondant pour les services ferroviaires est de 14.1 à 3.7."

(Transcription pp. 4912-4915.)

Les extraits ci-après de son témoignage traitent du sujet plus en détail:

"Afin de faire face à cette nouvelle situation concurrentielle (1946-1955) et de conserver les recettes des services de voyageurs, le Pacifique-Canadien a entrepris la réalisation d'un programme de modernisation du matériel servant à assurer ces services. Il a fait l'acquisition du meilleur matériel disponible et il a réduit considérablement le temps des parcours. Sur les moindres parcours, il a introduit les voitures diesel, un bel exemple des réalisations de la technique des transports, et il a ainsi assuré un meilleur service offrant plus de confort aux voyageurs et pouvant être exploité plus efficacement. En dépit des dépenses s'élevant à plusieurs millions et de tous les efforts tentés, il a été impossible de réduire les pertes subies par les services de voyageurs.

Toutefois, dans les dernières années de la décennie 1950-1960, à cause de la concurrence grandissante, le nombre de voyageurs a recommencé à diminuer et cette baisse a été ininterrompue depuis ce temps." (Transcription, p. 4893.)

"Devant la hausse rapide des prix, dans les années qui ont précédé 1960, la compagnie a tenté d'augmenter ses recettes en majorant les prix de passage mais les résultats de cette mesure ont été limités par la concurrence grandissante des autres moyens de transport.

Plus récemment, la réduction des prix de passage et différents genres de prix globaux n'ont pas donné les résultats espérés. Les tentatives en

vue d'améliorer les recettes nettes au moyen de prix réduits ont démontré que les recettes supplémentaires provenant de l'augmentation du nombre de voyageurs ne suffisent pas pour compenser l'augmentation des frais qu'entraîne le service de ces voyageurs.

Le déclin du voyage par chemin de fer s'est d'abord fait sentir dans les services d'embranchement. Les habitants des régions rurales qui se prévalaient autrefois des services ferroviaires assurés une fois, deux fois ou trois fois par semaine sur les embranchements ont trouvé plus commode de voyager en automobile sur les routes améliorées. Au début, lorsque le déclin est devenu évident, il a fallu réduire la fréquence de ces services. Cette mesure a été suivie du remplacement des trains conventionnels par des voitures diesel dans certaines régions et, dans d'autres, par l'élimination des trains de voyageurs.

La concurrence continuant d'augmenter et ses effets s'étendant au transport interurbain, des mesures semblables ont dû être prises relativement aux trains de voyageurs interurbains, le processus du déclin des services de trains de voyageurs se poursuivant ainsi." (Transcription, pp. 4896-7.)

"Toutefois, dans l'intervalle (à la suite du rapport de la Commission royale MacPherson), le Pacifique-Canadien a continué d'essayer de réduire les pertes d'exploitation des services de trains de voyageurs. A cette fin, il a appliqué un programme d'élimination, de réduction, de substitution et de combinaisons de trains de voyageurs. Dans un certain nombre de cas, le public a protesté et la Commission des transports du Canada a tenu de longues audiences dans les régions en cause avant de permettre l'abandon des services. Le public ne reconnaît pas facilement le fait que les chemins de fer ne sont nullement obligés de tenir disponibles des services dont les recettes ne couvrent pas les frais et que l'exploitation à perte d'un train de voyageurs est en réalité une mauvaise affectation et un gaspillage de la main-d'œuvre et des ressources matérielles de la compagnie et du pays en général, ce qui va à l'encontre du principe énoncé si clairement par la Commission royale." (Transcription, pp. 4902-3.)

"Cela ne veut pas dire que les services de trains de voyageurs du Pacifique-Canadien vont bientôt disparaître mais il est évident qu'ils ne sont plus une nécessité." (Transcription, p. 4903.)

"Le Pacifique-Canadien continue d'étudier le coût d'exploitation des trains de voyageurs par rapport aux recettes qu'ils rapportent. L'objectif est de ne continuer l'exploitation des services assurés au moyen des installations existantes qu'aussi longtemps que les recettes suffisent pour couvrir les frais directs variables selon le trafic et pour contribuer à la récupération du capital immobilisé.

Le Pacifique-Canadien a accepté l'obligation d'exploiter efficacement son entreprise que lui impose sa charte et qui a servi de fondement aux conclusions et aux recommandations de la Commission royale d'enquête sur les transports." (Transcription, p. 4903.)

"Si le Pacifique-Canadien doit contribuer à la croissance et au développement du Canada dans toute la mesure de ses possibilités comme l'exige l'intérêt national, il doit continuer de s'efforcer d'éliminer le gaspillage et l'inefficacité. Les fortes pertes résultant de l'exploitation des services de voyageurs ferroviaires montrent que d'importants moyens de transport sont affectés de façon peu judicieuse. L'emploi efficace de ces moyens de transport à des fins de services intérieurs ou pour le mouvement des denrées canadiennes destinées à l'exportation vers les marchés du monde, dans des conditions d'intense concurrence, est essentiel à l'essor du Canada. D'un point de vue plus restreint, le mauvais emploi des ressources de la compagnie diminue son aptitude à soutenir la concurrence et, par conséquent, non seulement à procurer de l'emploi au nombre croissant de jeunes Canadiens qui arrivent sur le marché de la main-d'œuvre chaque année, mais aussi à assurer la continuité des emplois du personnel qui est déjà à son service. En outre, l'exploitation à perte de services de voyageurs ferroviaires nuit aux autres moyens de transport qui ont le droit d'exploiter des services et de se développer." (Transcription, pp. 4904-5.)

"En 1964, les recettes des trains de voyageurs du Pacifique-Canadien ont été inférieures de 26 millions de dollars aux frais variables d'exploitation. Plus des trois quarts de ce déficit sont attribuables à l'exploitation des trains transcontinentaux comme, par exemple, le "Dominion". Bien que presque tous les services de trains de voyageurs exigent un personnel nombreux, c'est particulièrement le cas des services de trains de voyageurs transcontinentaux et, par conséquent, le coût de ses services se ressent des augmentations de salaire." (Transcription, pp. 4906-7.)

"Le service de trains de voyageurs ne comprend pas, règle générale, uniquement le transport des voyageurs. Ces trains ont également transporté du courrier, ainsi que des marchandises exigeant un service spécial et peut-être une certaine protection du fait qu'elles sont périssables (messageries). Par suite de la croissance du réseau routier du Canada, qui comprend des chemins ouverts en toutes saisons, et de la mise en service de véhicules routiers plus efficaces et propres à des emplois plus variés, le transport de ces marchandises a passé de plus en plus du service de trains de voyageurs aux camions. L'établissement et l'expansion des services aériens ont eu comme résultat le transport par air de tout le courrier de première classe ainsi qu'une augmentation marquée du service de transport par air des marchandises de haute qualité. Par conséquent, pendant ces

dernières années, les trains de voyageurs ont transporté surtout le courrier encombrant et ce qui restait du trafic-messageries." (Transcription, pp. 4907-8.)

"Concurremment, les progrès technologiques ont permis aux chemins de fer d'établir des horaires prévoyant des services de trains de marchandises rapides tout aussi bons, et en certains cas, meilleurs que ceux des trains de voyageurs quant à la durée du trajet et à la protection des marchandises. Les principaux facteurs qui ont contribué à l'établissement d'horaires de trains de marchandises rapides sont les suivants:

- La locomotive diesel
- La commande centralisée de la circulation
- L'amélioration des wagons à marchandises
- L'amélioration des voies ferrées
- L'utilisation des méthodes modernes de communication, y compris la radio
- L'application des méthodes modernes de traitement des données.

En plus de ces modifications concernant les moyens de transport, il y a eu celles qui ont été apportées à la manutention du trafic-marchandises dans les gares. Historiquement, les expéditions en wagonnées partielles et le fret ont été associés à nos hangars à marchandises, qui, évidemment, sont destinés aux services des trains de marchandises, tandis que le service des messageries a été associé aux trains et gares de voyageurs. Pendant ces dernières années, la distribution des expéditions en wagonnées partielles aux points locaux s'est faite par véhicules routiers au lieu de se faire par l'ancienne méthode des trains collecteurs. Se rendant compte de cette tendance au transport par route du trafic-marchandises, le Pacifique-Canadien a construit, pour la manutention des marchandises, des terminus modernes et efficaces, qui sont conçus, situés et outillés de façon à pouvoir s'occuper du trafic routier ainsi que du trafic-marchandises rapide. Ces nouveaux terminus n'ont absolument aucun rapport avec l'exploitation des trains de voyageurs." (Transcription, pp. 4908-9.)

"Signalons aussi que des services concurrentiels sont assurés par des entreprises d'expédition qui utilisent notre service rail-route et que des exploitants de wagons en commun font manutentionner leur trafic par nos trains de marchandises rapides. Afin de pouvoir continuer à faire face à la concurrence de ces autres exploitants relativement au temps épargné au point d'origine, au temps passé sur la route et à l'heure de disponibilité au point de destination, le trafic-messageries que prenaient encore les trains de voyageurs transcontinentaux a été cédé au service des marchandises rapide comportant livraison par route. Ce changement est un fait nouveau découlant des améliorations technologiques apportées au service des

marchandises rapide et aux terminus de marchandises.” (Transcription, p. 4909.)

Des dispositions ont été prises de concert avec le ministère des Postes pour le transport du courrier par les trains de marchandises rapides de façon à répondre aux besoins de ce ministère.” (Transcription, p. 4909.)

“Avant que le gouvernement ait informé les fonctionnaires de la compagnie de l'augmentation projetée des ventes de blé à la Russie, les projets de discontinuation du “Dominion” étaient bien en marche, bien qu'aucune décision n'eut été annoncée. Le besoin accru de moyens de transport créé par le mouvement du blé destiné à la Russie devint ainsi un nouveau facteur à considérer, et un nouveau motif à l'appui de la conclusion selon laquelle le “Dominion” devait être discontinué. Toutefois, indépendamment de ce facteur nouveau, et même s'il n'y avait pas eu de ventes de blé à la Russie, la décision de supprimer le “Dominion” aurait de toute façon été nécessaire, à cause des lourdes pertes que cette exploitation entraînait et pour les raisons susmentionnées.

Une grande partie du matériel de service des voyageurs utilisé par le “Dominion” pendant les mois d'été est désuet, selon les normes d'aujourd'hui, coûte de plus en plus cher à entretenir et, règle générale, a dépassé sa durée utile. Évidemment, rien ne justifie, du point de vue économique, l'achat de nouveau matériel pour ce service.” (Transcription, pp. 4910-11.)

Encouragement du trafic-voyageurs

On a demandé à M. Warren ce que le Pacifique-Canadien avait fait ou faisait pour encourager le trafic-voyageurs. Il a fermement soutenu que cette compagnie avait fait autant que tout chemin de fer des États-Unis ou du Canada pour encourager ce trafic. A l'appui de cette affirmation, il a mentionné ce qui suit:

En 1955, la compagnie a mis en service le “Canadian”, train aérodynamique à dôme panoramique, revêtu d'acier inoxydable, introduisant ainsi au Canada une norme de matériel et de service qui a peu d'égaux et n'est dépassée nulle part. Le Pacifique-Canadien a également introduit au Canada des autorails à air climatisé, revêtus d'acier inoxydable, pour les petits parcours, et exploite l'une des plus grandes flottes de ce matériel sur le continent.

La compagnie stimule la vente du transport des voyageurs au moyen d'annonces, de brochures, de communiqués, etc. Au Canada, l'annonce dans les journaux et les magazines en 1965 a comporté 970 insertions dans 48 publications, et aux États-Unis, 80 insertions dans 23 publications. Nous annonçons en outre dans les principaux pays d'outre-mer.

Depuis 1950, la compagnie distribue un feuillet mensuel en quatre couleurs au personnel des ventes de chacune des principales agences de voyage du Canada et des États-Unis. La compagnie a des bureaux attrayants et pourvus

d'un personnel compétent dans toute l'Amérique du Nord et dans les pays d'outre-mer; ces bureaux peuvent vendre sous un même toit tous les services de voyageurs qu'offre la compagnie; le Pacifique-Canadien est seul en son genre sous ce rapport.

En 1952, la compagnie a introduit un service qui permet de préparer les billets à l'avance pour l'heure fixée à laquelle le voyageur se présentera, ce qui lui évite toute attente. On a donné un plus petit format aux formules des billets et le nombre en a été réduit de 79 p. 100 depuis 1958, et de 48 p. 100 en 1965, comparativement à 1964.

La compagnie a fait une publicité agressive aux États-Unis, au cours des années passées, en faveur de ses voyages organisés.

Je me reporte ailleurs au témoignage de M. Warren relativement à la ligne de conduite suivie à l'égard des prix de passage et au système de réservation de la compagnie.

Les parties qui ont comparu aux audiences ont mis en contraste la ligne de conduite et les efforts du Pacifique-Canadien avec ceux des chemins de fer Nationaux du Canada. Les fonctionnaires du National-Canadien n'ont pas été appelés à témoigner, mais la ligne de conduite du National-Canadien a été exposée publiquement en d'autres occasions. Dans une cause relative à des trains de voyageurs que la Commission a entendue en 1960, il a été déclaré au nom du National-Canadien que ce dernier visait à exploiter des services de voyageurs partout où une telle exploitation pouvait faire ses frais, à obtenir la clientèle du public voyageur et à encourager le trafic-voyageurs, que la ligne de conduite de la compagnie consistait, là où existaient d'autres moyens de transport répondant aux besoins du public, à essayer d'abandonner les services peu utilisés, inutiles, ruineux et non rémunérateurs, et que le fardeau des pertes de ces services est supporté par les expéditeurs, les destinataires et les consommateurs des marchandises qui sont transportées par le service des marchandises des chemins de fer. Dans le rapport annuel de 1964 des chemins de fer Nationaux du Canada, nous relevons, sous le titre: Perspectives, l'exposé suivant:

"Pour ce qui est du trafic-voyageurs, le CN mène une action énergique dans toutes les régions offrant un potentiel de rentabilité suffisant, en vue d'accroître les ventes et d'assurer la qualité des services aux prix déterminés par la concurrence. Une analyse poussée des marchés et l'étude de l'évolution sociale, économique et technologique permettent de conclure qu'un service de voyageurs bien organisé et sagement administré peut être économiquement justifié dans presque toutes les régions actuellement desservies. Les résultats de 1964 sont très encourageants à cet égard."

Plus récemment, la Commission a reçu des chemins de fer Nationaux du Canada un exemplaire du texte de l'allocution qu'a prononcée le président et

directeur général des chemins de fer Nationaux du Canada, M. Donald Gordon, C.M.G., à la Division du Trésor de l'Association of American Railroads, au mois d'octobre, cette année, et dans laquelle il aurait dit:

“Depuis bien des années il me semble que les chemins de fer de notre continent sont enclins à adopter une attitude défaitiste au sujet de la possibilité d'assurer des services de voyageurs complets qui fassent leurs frais. Cette attitude les a portés à négliger l'application des techniques modernes d'analyse des marchés et d'accroissement des ventes dans ce domaine. Il existerait également un manque d'intérêt de leur part à exploiter le genre de matériel et de services propre à satisfaire le voyageur d'aujourd'hui. Toutefois, le CN a pris une attitude positive au lieu d'une attitude négative à l'égard de ses services de voyageurs. Nous avons analysé avec soin ce secteur de notre entreprise et nous croyons que nous pouvons le mettre en mesure de faire ses frais par un vigoureux effort d'imagination dans le domaine de la vente et par le genre de service propre à la vie d'aujourd'hui. Peut-être parce qu'elle est contraire à l'attitude générale, notre activité dans ce domaine a reçu une grande publicité.”

Systèmes de réservation

Au début de l'été dernier, la Commission s'est renseignée tant auprès du Pacifique-Canadien que des chemins de fer Nationaux sur leurs systèmes de réservation des places de voyageur dans les trains et, par la suite, a enjoint aux deux compagnies de tenir, pendant une période convenue, un registre des demandes de réservations sur leurs trains transcontinentaux qu'elles n'auront pas pu satisfaire. L'enquête à ce sujet était encore en cours lorsque le Pacifique-Canadien a donné avis de la discontinuation du “Dominion”. La Commission a étendu la portée des audiences relatives au “Dominion” de façon à y inclure le système de réservation du Pacifique-Canadien.

Au cours des audiences, plusieurs témoins ont mentionné dans leurs dépositions que, personnellement, ils n'avaient pu obtenir de réservation sur des trains du Pacifique-Canadien et qu'ils avaient éprouvé des difficultés et des retards à ce sujet. La Commission a reçu un bon nombre de lettres renfermant des plaintes semblables avant et pendant les audiences.

M. Warren a déclaré que le système de réservation du Pacifique-Canadien est semblable à celui de tous les autres chemins de fer de l'Amérique du Nord, que plusieurs grands chemins de fer ont fait l'expérience de systèmes électroniques de réservation et ont dépensé plusieurs millions pour ce faire, mais qu'ils ont mis ces systèmes de côté et sont revenus au système manuel qu'utilise le Pacifique-Canadien, parce que les systèmes électroniques qui conviennent au trafic des lignes aériennes ne peuvent être adaptés de façon satisfaisante à la réservation des différents genres d'espace des trains de voyageurs.

On pourrait résumer ainsi les caractéristiques les plus importantes du système de réservation et son fonctionnement:

1. Il y a cinq bureaux des réservations, nommément à Montréal, à Toronto, à Winnipeg, à Calgary et à Vancouver; et, en outre, il y a des bureaux des ventes en d'autres points, comme à Régina et à Kamloops. L'étendue et le genre d'espace alloué aux bureaux des réservations et aux bureaux des ventes sont déterminés par l'expérience et font l'objet d'un examen au moins deux fois par année. Les points moins importants passent leurs demandes au bureau des réservations le plus proche. Les bureaux des réservations et les bureaux des ventes sont reliés par téléphone, par télégraphe et par téléimprimeur. Il existe un diagramme de chaque voiture devant circuler et, à mesure que les places sont réservées, elles sont inscrites sur les diagrammes, ces diagrammes indiquant ainsi ce qui est réservé et ce qui est à vendre. L'espace est vendu selon le principe: premier arrivé, premier servi.

2. Un délai d'option est inscrit sur toutes les places réservées et les billets doivent être achetés avant l'expiration des options, autrement l'espace est libéré pour être vendu à d'autres. Si un genre particulier d'espace est demandé et qu'il ne soit pas disponible au bureau local, on tente de l'obtenir d'un autre bureau. On pourra aussi offrir un autre genre d'espace. Si, par exemple, l'espace est demandé à Montréal pour le parcours Montréal-Vancouver, le bureau de Montréal pourra avoir l'espace disponible pour tout le trajet, sinon il établira en consultant les autres bureaux quelle combinaison d'espaces pourra être fournie. En ce qui concerne l'espace inoccupé et apparemment disponible, il a été souligné que la vente d'un espace devant être occupé à partir de Kamloops fait que cet espace n'est pas disponible à partir de Vancouver pour occupation à l'est de Kamloops, mais la raison pour laquelle cet espace n'est pas occupé à partir de Vancouver ne sera pas apparente pour un voyageur qui prend le train à Vancouver. La même chose se produit ailleurs.

3. Les bureaux de Montréal, Toronto, Winnipeg et Vancouver sont munis de porte-diagrammes tournants "Lazy Suzan" qui permettent de s'occuper de la façon la plus rapide d'un grand nombre d'espaces.

4. A compter de 1965, la compagnie a fait connaître à tous les principaux bureaux des ventes et gares, deux fois par mois, en mai, juin et juillet, 45 jours à l'avance, la disponibilité des places dans les wagons-lits sur le "Canadian" pendant la saison d'été.

5. Pendant les douze mois terminés le 1^{er} juillet 1965, les ventes doubles sur les trains transcontinentaux ont été en moyenne de 0.7 par jour et les "sans suite", 1.5 par jour.

6. En plusieurs occasions depuis la Seconde Guerre mondiale et jusqu'en 1964, le Pacifique-Canadien a étudié le pour et le contre d'un bureau central

des réservations, mais ces études ont démontré que la fusion des bureaux ne serait pas désirable étant donné les problèmes en cause et leurs effets sur le traitement efficace des demandes de réservations; en outre, la centralisation des réservations ne serait pas attrayante du point de vue économique; les grandes entreprises ferroviaires des États-Unis continuent de décentraliser leurs bureaux des réservations.

Dans des lettres datées du 15 avril et du 19 août 1965, en réponse aux demandes de renseignements de la Commission sur le système de réservation des chemins de fer Nationaux du Canada, cette compagnie a fourni les renseignements suivants:

1. Absolument parlant, les espaces réservés dans les trains transcontinentaux du National-Canadien sont répartis entre les grandes villes du parcours et l'inventaire des réservations d'un wagon ou d'un train se fait au lieu d'où part la voiture ou le train. La compagnie fait des plans pour l'établissement d'un système dans lequel l'inventaire de toutes les unités réservées sera centralisé. Le système existant a été amélioré au cours de ces deux dernières années par les mesures suivantes:

- a) le personnel des bureaux des réservations de Montréal et de Toronto a été presque doublé et celui d'autres bureaux des réservations a été augmenté; les nouveaux employés ont été choisis et formés avec soin;
- b) en même temps qu'augmentait le personnel, le nombre de lignes téléphoniques à l'usage du public s'accroissait considérablement et des lignes téléphoniques directes étaient établies entre les principaux bureaux de l'Ouest du Canada; des circuits particuliers de téléimprimeurs assurent des communications rapides entre les bureaux de l'Ouest et ceux de l'Est; et
- c) à Montréal, les locaux ont été agrandis et modernisés en vue d'un rendement accru, et de nouvelles techniques ont été instaurées; des modifications répondant aux conditions et aux besoins locaux ont aussi été effectuées dans d'autres villes; au nombre de ces innovations, il y a notamment l'introduction des porte-diagrammes tournants "Lazy Susan" à Halifax, Toronto, Edmonton et Vancouver et l'introduction, au bureau de Toronto, d'un "directeur automatique d'appels", qui dirige les appels d'arrivée vers les lignes vacantes.

Le National-Canadien reconnaît qu'il lui est difficile de satisfaire aux demandes de service, particulièrement durant les mois d'été et à l'époque de Noël, alors que de longues listes d'attente se forment, mais dans la plupart des cas il réussit à offrir d'autres services que les voyageurs acceptent. La compagnie estime qu'au plus dix pour cent de ceux qui sont sur les listes d'attente sont laissés sans réservation ferme. En 1964, il a fait une analyse

des principaux trains pendant la période de juillet et août afin de déterminer dans quelle mesure existait le problème des réservations "sans suite" et il a été établi que 239 espaces réservés n'avaient pas été vendus parce que les intéressés ne se sont pas présentés, ce qui représente une perte de recettes approximative de \$8,600; il y a eu amélioration mais ce problème est toujours un fléau pour la compagnie.

Le Pacifique-Canadien a déposé des états montrant les demandes de réservation non satisfaites sur le "Canadian" au cours des périodes s'étendant du 19 au 26 septembre 1965 (pièce 11), du 19 septembre au 7 octobre (pièce 21), du 8 au 17 octobre (pièce 55). En outre, M. Warren a affirmé à l'audience de Port-Arthur que d'autres états portant sur la période allant jusqu'au 25 octobre n'indiquaient rien sauf deux demandes de couchettes supérieures non satisfaites.

Les états montrent les réservations demandées mais non satisfaites, y compris les demandes des titulaires de permis de passage, pour chacun des bureaux des réservations, c'est-à-dire Montréal, Toronto, Winnipeg, Calgary et Vancouver, pour les différents genres d'espaces. Voici le total pour la période du 19 septembre au 25 octobre 1965:

RÉSERVATIONS DEMANDÉES MAIS NON SATISFAITES DU 19 SEPTEMBRE AU 25 OCTOBRE 1965

Salons	0
Compartiments	7
Chambres	29
Chambrettes	18
Lits superposés ordinaires	
Couchettes inférieures	58
Couchettes supérieures	74
Lits superposés de classe touriste	
Couchettes inférieures	0
Couchettes supérieures	0
Sièges (voitures ordinaires)	0

Bien que ces chiffres soient utiles, ils sont insuffisants parce qu'ils ne montrent pas la demande réelle et la demande possible d'espace, vu qu'ils ne font voir que les demandes qui ont été faites, c'est-à-dire dont la Compagnie s'est occupée. Il y a sans doute eu, en outre, des demandes de renseignements sur la disponibilité de l'espace qui, pour une raison ou pour une autre, n'ont pas donné lieu à une demande de réservation, à une inscription sur une liste et à l'assignation d'une place ou un refus. Pendant la période en cause, soit du 19 septembre au 25 octobre, la demande de réservations n'est pas aussi grande que durant les vacances de l'été et pendant le temps de Noël.

Dans le passé, le Pacifique-Canadien et le National-Canadien ne tenaient pas de registres des demandes de réservation non satisfaites. Par conséquent, le Pacifique-Canadien n'a fourni des chiffres que pour la période qui a commencé après que la Commission lui eut demandé de tenir des registres. Le Pacifique-Canadien a soutenu que le fait qu'il y ait de l'espace non occupé dans ses trains indique qu'il fait droit aux demandes de réservation.

Le détail des demandes de réservation non satisfaites du National-Canadien devrait parvenir à la Commission dans un avenir rapproché. S'il lui parvient avant que le jugement ne soit terminé, il y sera inclus; sinon, il lui sera ajouté à titre de supplément.

Prix de passage

Le Pacifique-Canadien a déposé la pièce 58, reproduite ci-après, qui montre les différents prix de passage majorés et prix de passage réduits au 1^{er} mai, au 1^{er} août et au 1^{er} octobre 1965.

ALLER - PRIX DE PASSAGE - PACIFIQUE-CANADIEN

	<u>1^{er} mai 1965</u>	<u>1^{er} août 1965</u>	<u>1^{er} octobre 1965</u>
Montréal-Saint-Jean	19.70	22.89	22.89
" -Sherbrooke	4.05	5.35	5.35
" -Sudbury	15.85 & 16.35	19.75 & 20.25	19.25 & 19.75
" -Vancouver	51.00	51.00	43.00
Toronto-London	4.40	5.75	5.75
" -Windsor	8.55	11.25	11.25
" -Sudbury	9.80	12.80	12.80
" -Vancouver	49.50	49.50	42.00
Fort William-Winnipeg	11.50 & 13.00	21.00	16.50
Winnipeg-Brandon	3.90 & 4.70	3.90 & 4.70	3.30 & 4.00
" -Regina	10.50 & 12.00	17.90	14.55 & 15.00
" -Calgary	20.00	20.00	15.00
" -Vancouver	31.50	31.50	24.00
Regina-Calgary	15.50	20.00	15.00
Medicine Hat-Lethbridge	4.30	5.60	5.60
" " -Calgary	6.65 & 8.00	8.80	8.80
Calgary-Edmonton	7.40	9.70	9.70
" -Lethbridge	4.85	6.35	6.35
" -Vancouver	19.00	19.00	14.00

REMARQUE.—Lorsque deux prix de passage sont indiqués, le plus élevé vaut pour le vendredi et le dimanche, le moins élevé pour les autres jours de la semaine.

**Observations et conclusions concernant l'encouragement du trafic,
les systèmes de réservation et les prix de passage**

Il ressort des mémoires présentées aux audiences et des lettres reçues par la Commission qu'il existe une conviction très largement répandue que le Pacifique-Canadien n'a pas pris suffisamment d'initiative pour attirer les voyageurs vers ses trains et garder son service de voyageurs en état de viabilité et que cette compagnie veut abandonner le transport des voyageurs par chemin de fer. Le Pacifique-Canadien a riposté en déclarant qu'il a fait autant que n'importe quel autre chemin de fer du Canada ou des États-Unis pour attirer les voyageurs et à l'appui de ses assertions, il a souligné les mesures exposées dans les témoignages de M. Emerson et de M. Warren. M. Warren est le doyen des responsables du trafic-voyageurs sur notre continent. Il a dit qu'en plus des recherches qu'a comportées l'acquisition du "Canadian" et des autorails diesel la compagnie se tient continuellement au courant des recherches qui se font, particulièrement aux États-Unis, où les conditions sont plus ou moins équivalentes à celles du Canada et qu'il est constamment informé et au courant des recherches. Le Pacifique-Canadien s'est également reporté aux conclusions de la Commission royale MacPherson relativement aux services des voyageurs des chemins de fer.

En établissant les causes de la diminution de la clientèle du "Dominion", on ne saurait faire abstraction de la diminution du nombre des voyageurs transportés par chemin de fer ailleurs au Canada et aux États-Unis diminution généralement attribuée principalement à l'amélioration des routes et à l'augmentation du nombre d'automobiles privées et, à un moindre degré, aux moyens de transport aérien et à la préférence accordée à ce mode de transport pour les grandes distances.

Les témoins du Pacifique-Canadien n'ont pas contesté le fait que les chemins de fer Nationaux du Canada font beaucoup pour attirer des voyageurs à leurs trains de diverses façons, y compris l'emploi de wagons neufs et meilleurs, la réduction des prix de passage et une très grande publicité. Cependant, j'ai l'impression que le Pacifique-Canadien attend les résultats des efforts des chemins de fer Nationaux avec la ferme conviction que le National-Canadien, qui augmente le nombre de ses voyageurs augmente aussi les pertes financières provenant de ses services de transport de voyageurs par chemin de fer.

J'ai mentionné que le Pacifique-Canadien a dit en parlant de son système de réservation qu'il utilise le système ordinaire généralement employé par les chemins de fer des États-Unis et du Canada, etc. Je ne crois pas que le système ne puisse pas être amélioré. La Commission se tiendra au courant des améliorations qu'apporte le National-Canadien et continuera d'explorer la question en vue de l'amélioration des systèmes. Il est raisonnable de conclure, si l'on considère le nombre de plaintes parvenues à la Commission relativement à l'impossibilité d'obtenir des réservations, que bien d'autres personnes ont éprouvé

les mêmes difficultés, vu qu'elles n'ont pas toutes écrit à la Commission. Cependant, c'est aussi un fait que chaque année le Pacifique-Canadien et le National-Canadien ont donné des réservations sur leurs trains transcontinentaux à des milliers de voyageurs. Je ne crois pas que le Pacifique-Canadien ait donné ordre à ses vendeurs de billets de refuser de vendre de l'espace disponible dans les trains ni de décourager l'utilisation du chemin de fer par les voyageurs. Aucune déposition n'a été faite en ce sens. Si de telles instructions avaient été données, il est inconcevable qu'aucun vendeur de billets ne l'aurait révélé ou que d'une façon ou de l'autre l'attention de la Commission n'aurait pas été attirée sur un tel état de choses. Toutefois, certains employés du service des voyageurs n'hésitent pas à exprimer leur conviction que la compagnie décourage intentionnellement les usagers de ses services de voyageurs et il semblerait, en outre, que certains vendeurs de billets et employés de gare manquent de formation et d'expérience ou sont d'autre façon incompetents. L'attention de la Commission a été attirée sur un certain nombre de cas où des personnes ont eu de la difficulté à obtenir des renseignements sur l'heure d'arrivée prévue des trains ou ont obtenu des renseignements inexacts. Le manque de personnel aux endroits et aux heures en cause pourrait bien être l'une des raisons. Le nombre des membres du personnel à un endroit donné, à un moment donné, dépend de la clientèle raisonnablement prévue à cet endroit et à ce moment.

J'ai cité la déclaration de M. Emerson sur les raisons qui ont motivé l'augmentation des prix de passage et sur l'expérience des réductions des prix de passage. M. Warren a également traité de ce sujet. Il a dit que les niveaux des prix de passage font l'objet d'essais dans différentes parties du pays en vue de découvrir quels sont ceux qui produisent le plus de recettes nettes et que la situation de la compagnie du point de vue des recettes s'était améliorée dans plusieurs des secteurs où les prix de passage avaient été augmentés en septembre 1964; que le but est de déterminer le taux qui produira les recettes nettes les plus avantageuses; les taux peuvent être si élevés qu'ils font baisser les recettes en décourageant le trafic, et ils peuvent être si bas qu'ils réduisent les recettes nettes en ajoutant aux frais le coût du service du nouveau trafic que les prix de passage ne suffisent pas à défrayer; le Pacifique-Canadien tente d'obtenir le volume de trafic qui permettra l'utilisation maximum de l'espace dans le train à chaque voyage; rien, sauf son propre intérêt, ne contraint la compagnie à essayer de persuader plus de gens à voyager par ses trains; le trafic en puissance et les autres conditions varient dans les différentes parties du pays et les taux devraient être en rapport avec les marchés particuliers qu'ils sont destinés à desservir.

Si valables que soient la ligne de conduite et les motifs du Pacifique Canadien relativement à ses prix de passage, il me semble que bien des gens sont convaincus que les augmentations ont été introduites dans le but de décourager les voyages par les trains du Pacifique-Canadien. J'admets que l'augmen

tation des prix de passage tend à décourager la clientèle et à créer l'impression que c'est le but poursuivi. Cependant, j'accepte comme étant donnée de bonne foi l'explication du Pacifique-Canadien selon laquelle les modifications apportées à ses prix de passage étaient destinées en premier lieu à améliorer les recettes nettes de la compagnie pour les trains en cause et non à éloigner la clientèle de ses trains. Cependant, il est possible que ces modifications aient un mauvais effet sur la clientèle et les recettes.

Je crois qu'il ne fait pas de doute que les mesures prises par le Pacifique-Canadien pour augmenter le trafic-voyageurs et son désir d'y parvenir ne sont pas à l'heure actuelle, quels qu'ils aient été dans les années antérieures, aussi grands ni aussi efficaces que les efforts du National-Canadien à ce sujet. Les deux compagnies diffèrent incontestablement d'opinion sur les possibilités futures et la viabilité des services de voyageurs des chemins de fer et la nécessité de ces services pour le public.

Janus était le dieu des portes chez les Romains, en particulier de l'arc par lequel passaient les armées romaines lorsqu'elles partaient pour la guerre. Janus avait deux visages, l'un regardant devant lui, l'autre derrière. En évaluant les besoins publics futurs en matière de services de voyageurs assurés par les différents modes de transport et en étudiant la meilleure façon possible de satisfaire à ces besoins, il faut jeter un coup d'œil en arrière sur l'expérience du passé et regarder en avant en exerçant le meilleur jugement possible. Compte tenu des impondérables et des incertitudes, il n'y a pas lieu d'être étonné si les opinions diffèrent quant à l'avenir des services de voyageurs ferroviaires et quant aux ressources qu'il est raisonnable d'affecter à ces services.

Déplacement des employés: conclusions

Les fonctionnaires du Pacifique-Canadien estiment qu'environ 100 employés seraient déplacés si le "Dominion" actuel était supprimé mais la plupart de ces employés pourraient obtenir un autre emploi au service de la compagnie.

M. A.-R. Blanchette, représentant de la Fraternité des garçons de wagon-lit, a déposé la pièce 60 qui est censée démontrer que la réduction de la composition du "Dominion" à la fin de la saison d'été de 1965 a mis à pied 168 garçons de wagon-lit; et qu'en 1960, 134 garçons de wagon-lit perdirent leur emploi lorsque le train cessa d'avoir des wagons-lits pendant toute l'année.

En réponse à cette déposition, M. James, chef du service des wagons-lits, wagons-restaurants et wagons-salons, a déclaré qu'en 1960, environ 134 garçons de wagon-lit avaient été mis en congé par suite des modifications apportées au "Dominion" mais que depuis, à mesure des besoins de remplacement, ils ont été repris et qu'en 1963, la compagnie embauchait de nouveau des garçons pour le service permanent; il déclarait aussi qu'en 1965, 408 employés temporaires avaient été engagés en qualité de garçons de wagon-lit pour les services d'été

du "Canadian" et du "Dominion", que sur ce nombre 393 étaient des étudiants et 15 avaient été engagés dans la rue et qu'en septembre, lorsque les wagons-lits du service d'été furent retirés, le personnel de garçons de wagon-lit fut réduit du personnel d'été comme par les années précédentes.

M. J. Brown, président général des employés des services de wagon-restaurant, Brotherhood of Railway Trainmen, a donné une estimation des pertes d'emploi dans le service des wagons-restaurants du "Dominion" en 1960 et à la fin du service d'été en septembre 1965. Il a également déclaré dans son témoignage qu'en certaines occasions les employés des wagons-restaurants ont été surchargés de travail par suite du nombre de voyageurs qui prenaient leurs repas dans les wagons-restaurants, ayant à servir jusqu'à quatre fois pour un même repas. Dans un wagon-restaurant, environ 48 personnes peuvent être servies à la fois. Parfois il n'y avait qu'un wagon-restaurant alors qu'il en aurait fallu deux. Les témoignages indiquent que dans une proportion d'environ 98 p. 100, l'aide d'été du service des wagons-restaurants est constituée par des étudiants.

Le nombre des repas servis sur le "Canadian" constitue également un indice de l'importance de sa clientèle. La compagnie a déposé la pièce 79, qui montre le nombre de personnes aux repas sur le "Canadian" chaque jour en août 1964 et août 1965, en septembre de ces deux années et en octobre de ces deux années jusqu'au 20 octobre et en novembre 1964. Parfois il y avait deux wagons-restaurants, parfois un seul. Cette pièce, qui donne un exposé détaillé, comprend 8 pages; je ne la reproduis pas ici. En prenant les totaux moyens quotidiens nous avons pour chaque repas les chiffres suivants:

1965		<u>PD</u>	<u>L</u>	<u>D</u>	<u>PD</u>	<u>L</u>	<u>D</u>	<u>PD</u>
Sudbury-Vancouver								
septembre:	du 1 ^{er} au 10	191	189	192	177	189	183	174
	du 11 au 20	193	182	182	176	183	171	173
	du 21 au 30	148	139	146	148	147	150	150
Vancouver-Sudbury								
septembre:	du 1 ^{er} au 10	178	166	190	198	181	199	194
	du 11 au 20	183	168	186	186	169	184	194
	du 21 au 30	152	142	166	168	149	161	165
Sudbury-Vancouver								
août:	du 1 ^{er} au 10	207	208	222	199	214	189	181
	du 11 au 20	203	198	206	194	201	188	180
	du 21 au 31	200	197	200	184	190	180	171

1965 (suite)		<u>PD</u>	<u>L</u>	<u>D</u>	<u>PD</u>	<u>L</u>	<u>D</u>	<u>PD</u>
Vancouver—Sudbury								
août:	du 1 ^{er} au 10	187	167	182	197	197	207	201
	du 11 au 20	186	170	194	203	194	210	204
	du 21 au 31	195	175	190	199	186	203	198

Sudbury—Vancouver								
octobre:	du 1 ^{er} au 10	175	172	169	151	158	142	150
	du 11 au 20	137	130	131	122	122	122	119

Vancouver—Sudbury								
octobre:	du 1 ^{er} au 10	138	133	140	147	125	143	144
	du 11 au 20	107	101	116	127	126	138	132

1964

Sudbury—Vancouver								
novembre:	du 1 ^{er} au 10	89	84	85	96	98	90	86
	du 11 au 20	95	86	89	90	94	86	81
	du 21 au 30	108	101	106	80	80	74	76

Vancouver—Sudbury								
novembre:	du 1 ^{er} au 10	72	70	89	99	86	98	95
	du 11 au 20	65	55	82	106	102	112	110
	du 21 au 30	64	58	74	76	69	75	76

L'abandon du "Dominion" causera le déplacement d'employés et la perte d'emplois. Beaucoup de ceux qui seront déplacés obtiendront un autre emploi auprès de la compagnie en évinçant des hommes ayant moins d'ancienneté, en déménageant dans un autre endroit ou recourant à d'autres moyens, ce qui n'a rien d'extraordinaire sur les chemins de fer. Mais le fait que ce ne soit rien d'extraordinaire n'amoindrit pas les inconvénients ni la perte d'emplois qui découleront du déplacement.

Bien que je tiennent compte du déplacement des employés et de la perte d'emplois ainsi que des inconvénients qui accompagnent ce déplacement et cette perte, je ne puis soutenir que la Commission doive ordonner la continuation du service du train afin d'éviter de telles conséquences, si le bien-fondé de la cause dans son ensemble est suffisant pour permettre à la compagnie d'abandonner le train. Je ne considère pas la situation du point de vue purement juridique, mais, sous ce rapport, je suis d'avis que l'article 315 de la Loi sur les chemins de fer, qui impose aux compagnies de chemin de fer de fournir des installations suffisantes et convenables pour le trafic, a été décrété non pas

pour le bien des chemins de fer ou pour le bien de leurs employés mais pour le bien du public. Mon opinion à ce sujet se trouve renforcée par les conclusions du juge Locke, de la Cour suprême du Canada, dans la cause Patchett & Sons Ltd. c. Pacific Great Eastern Railway Company, R.C.S. (1959), 271 à 298:

“Les obligations imposées aux chemins de fer en Colombie-Britannique par les articles 203 et 222 de la loi provinciale sur les chemins de fer et aux chemins de fer transcontinentaux par l'article 312* de la Loi sur les chemins de fer du Canada ont été décrétées pour la protection des intérêts du public en général qui a besoin des services de ces transporteurs. Elles n'ont pas été décrétées pour le bien des compagnies de chemin de fer ni pour le bien de leurs employés.”

Permis de passage

La compagnie a imposé des restrictions à l'utilisation sur le “Dominion” des permis de passage d'employé. Les titulaires de tels permis doivent, soit acheter une place en wagon-lit, soit payer demi-passage pour une place en voiture ordinaire.

Les permis de passage sont accordés aux employés de chemin de fer à la discrétion des compagnies, en vertu de l'article 350 de la Loi sur les chemins de fer. La Commission n'a pas le pouvoir d'ordonner la délivrance de permis de passage et ses fonctions se résument, de façon générale, à prévenir et à faire disparaître les distinctions injustes et les préférences injustifiées. Windsor c. Detroit & Canada Tunnel Corporation, 52 C.R.T.C. 199.

Recettes et frais du “Dominion”

Le témoin du Pacifique-Canadien dont la déposition concernait le coût, M. Nepveu, a donné les chiffres, établis par la compagnie, des recettes et des frais variables du “Dominion” en 1964 alors qu'il fut en service pendant sa dernière année civile complète avec des wagons à l'avant, des wagons-lits, des wagons-restaurants et des voitures ordinaires; les chiffres des mois de janvier à juillet 1965 inclusivement; et les chiffres provenant d'une projection pour une période complète de douze mois des recettes et des frais variables du train exploité de la façon dont il l'est actuellement. (Pièces 4 et 5)

Chiffres de 1964:

Recettes	\$11,154,234
Frais variables	<u>20,828,166</u>
Déficit	\$ 9,673,932

* Actuellement, l'article 315.

Chiffres de janvier à juillet 1965:

Recettes	\$ 5,714,342
Frais variables	<u>10,738,266</u>
Déficit	\$ 5,023,924

Chiffres de janvier à juillet 1964:

Recettes	\$ 6,432,113
Frais variables	<u>11,697,729</u>
Déficit	\$ 5,265,616

Chiffres d'une année entière fondés sur une projection du service actuel pour cette période:

Recettes	\$ 2,852,100
Frais variables	<u>7,732,100</u>
Déficit	\$ 4,880,000 (Pièce 5)

Reproduits ci-après:

- a) Détail des recettes du train pour 1964 et pour janvier-juillet 1965, figurant dans l'état 2 de la pièce 4, consistant en 3 pages.
- b) Détail des frais variables du train pour les deux mêmes périodes figurant dans l'état 3 de la pièce 4.
- c) Projection sur une année entière des recettes et des frais variables du train exploité de la façon dont il l'est actuellement.

CHEMIN DE FER DU PACIFIQUE-CANADIEN

Recettes du "Dominion"

De janvier 1964 à juillet 1965, inclusivement

	<u>Voyageurs</u>	<u>Autres</u>	<u>Total</u>
1964 – Janvier	\$ 234,436	\$708,157	\$ 942,593
Février	154,881	402,937	557,818
Mars	226,698	546,152	772,850
Avril	216,462	557,545	774,007
Mai	238,119	597,709	835,828
Juin	477,273	464,283	941,556
Juillet	1,313,613	293,848	1,607,461
Août	1,261,181	422,887	1,684,068
Septembre	335,260	567,101	922,361
Octobre	130,266	605,464	735,730
Novembre	111,505	674,414	785,919
Décembre	259,489	334,554	594,043
1965 – Janvier	213,691	624,991	838,682
Février	132,711	388,180	520,891
Mars	121,895	563,422	685,317
Avril	199,255	569,454	768,709
Mai	172,202	529,666	701,868
Juin	368,261	430,029	798,290
Juillet	1,376,268	24,317	1,400,585

Sources: archives de la compagnie.

CHEMIN DE FER DU PACIFIQUE-CANADIEN

Recettes-voyageurs du "Dominion"

De janvier 1964 à juillet 1965, inclusivement

	Prix de passage	Wagons-lits et wagons-salons	Restaurant et buffet	Total
1964 – Janvier	\$196,642	\$ 12,350	\$ 25,444	\$ 234,436
Février	128,860	9,867	16,154	154,881
Mars	190,276	10,931	25,491	226,698
Avril	184,198	10,385	21,879	216,462
Mai	203,491	9,429	25,199	238,119
Juin	370,883	41,538	64,852	477,273
Juillet	865,822	182,996	264,795	1,313,613
Août	836,905	169,114	255,162	1,261,181
Septembre	254,702	37,295	63,263	355,260
Octobre	99,983	8,667	21,616	130,266
Novembre	86,672	8,143	16,690	111,505
Décembre	208,397	16,984	34,108	259,489
1965 – Janvier	179,233	10,858	23,600	213,691
Février	109,448	8,409	14,854	132,711
Mars	110,137	7,492	4,266	121,895
Avril	189,136	8,211	1,908	199,255
Mai	163,157	7,419	1,626	172,202
Juin	299,902	27,494	40,865	368,261
Juillet	962,417	155,113	258,738	1,376,268

Sources: archives de la compagnie.

CHEMIN DE FER DU PACIFIQUE-CANADIEN

Autres recettes du "Dominion"

De janvier 1964 à juillet 1965, inclusivement

	<u>Courrier</u>	<u>Messageries</u>	<u>Divers</u>	<u>Total</u>
1964 – Janvier	\$279,338	\$423,161	\$ 5,658	\$708,157
Février	280,086	117,529	5,322	402,937
Mars	296,266	247,245	2,641	546,152
Avril	291,317	258,993	7,235	557,545
Mai	308,402	281,965	7,342	597,709
Juin	281,680	171,989	10,614	464,283
Juillet	266,566	5,685	21,597	293,848
Août	285,401	115,871	21,615	422,887
Septembre	301,451	258,685	6,965	567,101
Octobre	337,626	263,542	4,296	605,464
Novembre	333,172	335,398	5,844	674,414
Décembre	416,427	(92,198)	10,325	334,554
1965 – Janvier	254,487	365,732	4,772	624,991
Février	244,658	138,733	4,789	388,180
Mars	264,317	294,653	4,452	563,422
Avril	267,953	293,023	8,478	569,454
Mai	268,513	254,247	6,906	529,666
Juin	192,716	231,306	6,007	430,029
Juillet	—	—	24,317	24,317

Sources: archives de la compagnie.

CHEMIN DE FER DU PACIFIQUE-CANADIEN

Frais variables du "Dominion"

	Année 1964	Janv. à juillet 1965
Salaires du personnel des trains et des locomotives	\$ 2,144,904	\$ 1,117,957
Combustible	1,226,439	583,141
Eau et lubrifiants	116,265	61,063
Dépenses de rotonde	221,757	112,745
Autres dépenses des trains	1,301,549	707,341
Manœuvre	248,294	138,696
Gares	425,570	249,946
Wagons-lits et wagons-salons	913,343	442,876
Autre transport	778,579	402,825
Réparation des locomotives	1,387,378	711,989
Réparation des voitures	2,980,962	1,654,757
Service des restaurants et buffets	1,035,418	407,080
Entretien de la voie	1,932,657	920,473
Trafic	759,102	433,742
Pensions et assurance-chômage	606,511	311,430
Autres dépenses générales	628,678	322,811
Amortissement – Locomotives	303,412	162,943
Voitures	1,033,232	558,939
Coût en capital – Voie	667,224	317,782
Locomotives	434,700	233,450
Voitures	1,682,192	886,280
Total des frais variables	<u>\$20,828,166</u>	<u>\$10,738,266</u>

Sources: archives de la compagnie.

CHEMIN DE FER DU PACIFIQUE-CANADIEN

Projection des recettes et des frais variables du "Dominion"
exploité de la façon actuelle pour une année entière

RECETTES

Voyageurs	\$2,664,600
Wagons-lits et wagons-salons	154,200
Buffets	11,800
Autres	21,500
Total	<u>\$2,852,100</u>

FRAIS VARIABLES

Salaires du personnel des trains et des locomotives	\$1,607,200
Combustible	461,700
Eau, lubrifiants et dépenses de rotonde	196,800
Autres dépenses des trains	551,600
Dépenses de manœuvre	70,400
Dépenses des gares	146,200
Wagons-lits, wagons-salons et buffets	93,800
Autre transport	348,500
Réparation des locomotives	662,600
Réparation des voitures	977,800
Entretien de la voie	562,600
Trafic et dépenses générales, y compris les pensions et l'assurance-chômage	995,700
Amortissement — Locomotives	117,900
— Voitures	177,400
Coût de l'argent — Voie	245,500
Locomotives	134,600
Voitures	248,000
Corrections destinées à ramener au niveau actuel les taux de salaires là où les frais unitaires de 1964 ont été utilisés	<u>133,800</u>
Total	<u>\$7,732,100</u>

Excédent des frais variables sur les recettes \$4,880,000

M. Nepveu a expliqué les méthodes qu'il a utilisées pour le calcul des recettes et des frais, méthodes qui seront exposées plus loin dans le présent jugement. Certains des chiffres du service des voyageurs peuvent être obtenus directement des comptes tenus suivant le système de classification uniforme des comptes prescrit aux chemins de fer par la Commission des transports du Canada. Cependant, d'autres catégories de dépenses sont portées à des comptes communs relatifs à l'ensemble du réseau. Le système de classification prévoit ce qui suit:

“Les livres seront tenus de façon qu'il soit possible d'établir l'exactitude de la comptabilité et toutes les inscriptions faites dans les comptes comprendront suffisamment de détails pour montrer complètement les faits qui s'y rapportent. Si tous les renseignements ne sont pas donnés dans les livres généraux, les inscriptions qui y sont faites seront justifiées dans d'autres livres donnant tous les détails. Les inscriptions du livre général renfermeront un renvoi suffisant aux comptes détaillés pour en permettre l'identification, et les comptes détaillés seront classés de façon à pouvoir être facilement examinés par les représentants de la Commission. Les transporteurs sont libres de subdiviser ou non les comptes généraux et les comptes principaux.”

En pratique, les chemins de fer tiennent leurs comptes par régions et par divisions; ces comptes sont intégrés dans les totaux du réseau au bureau central. Certains comptes sont subdivisés en comptes du service des voyageurs et comptes du service des marchandises, mais, comme la remarque en a déjà été faite, beaucoup de comptes renferment des dépenses qui sont communes aux deux services. Cette particularité est propre au transport par chemin de fer puisque certaines dépenses comme celles des gares et de l'entretien de la voie sont faites pour assurer tant le service des voyageurs que celui des marchandises; d'autres dépenses comme celles de l'exploitation des gares de triage sont faites pour déplacer le trafic d'une division de service à une autre. La séparation de ces dépenses comporte diverses méthodes de répartition, et il faut faire preuve de discernement dans la détermination des dépenses d'un secteur particulier du service comme le “Dominion”.

La Commission peut, aux fins de rendre un jugement autorisant ou non l'abandon d'un service, réduire ou rejeter les estimations que prépare le chemin de fer en vue de déterminer la rentabilité d'un service donné. Les réductions et les rejets à cette fin ne seront pas nécessairement les mêmes que s'il s'agissait d'une cause de taux ou d'une autre cause d'abandon de service dont les circonstances seraient différentes.

Certains des frais étaient directement affectables au “Dominion”, comme les salaires du personnel, par exemple; d'autres ont été établis au moyen d'une analyse régressive, et d'autres par l'utilisation de moyennes du réseau, de pourcentages et d'autres moyens. Les recettes ont été établies par différentes méthodes également.

L'établissement du prix de revient ferroviaire est un art en voie de développement dont l'utilisation des calculatrices électroniques a facilité le progrès. Il devient graduellement plus parfait. Le personnel de la Commission connaît les avantages et les inconvénients des diverses méthodes et bases utilisées dans l'établissement du prix de revient ferroviaire. Il étudie les documents courants des chemins de fer, examine les prix de revient avec les employés des chemins de fer préposés à l'établissement de ces prix et fait des contrôles ici et là afin d'éprouver les méthodes, bases, etc., utilisées par les compagnies et la validité, pour les fins de la Commission, des chiffres obtenus en ce qui concerne les frais et les recettes.

Le personnel de l'Économie et de la comptabilité et de l'Établissement des prix de revient poursuit également ses propres études sur le rôle de l'établissement du prix de revient dans les décisions portant réglementation. Ce personnel a été augmenté mais il est encore relativement peu nombreux et il devra être augmenté encore si la Commission doit déterminer les déficits des services des voyageurs, des embranchements et du transport des grains pour le versement des subventions recommandées par la Commission MacPherson et le coût du transport de certaines marchandises pour les fins de la tarification, vu que la quantité de travail et le besoin de détermination précise des prix de revient seront accrus. Sans tenir compte de l'adoption de la nouvelle législation fondée sur les recommandations de la Commission MacPherson, la Commission compte augmenter encore son personnel afin de suivre les progrès des nouvelles techniques et l'évolution des modes de transport.

Les méthodes d'établissement du prix de revient dans les causes des trains de voyageurs ont été étudiées par la Commission et par les parties intéressées dans des causes antérieures entendues par la Commission et ont été décrites dans un certain nombre de ses jugements.

Je ne crois pas qu'il y ait lieu de décrire ici toutes les méthodes utilisées par le Pacifique-Canadien dans la présente cause. Cependant, vu que c'est la première cause que la Commission a entendue relativement à l'abandon d'un train de voyageurs transcontinental et qu'il s'agit d'une cause présentant plus qu'un intérêt local j'exposerai certains des éléments les plus importants qui ont fait l'objet de dépositions aux audiences, et dans l'intérêt de la précision, parce qu'il n'est pas facile de paraphraser le langage utilisé dans l'établissement du prix de revient, je répéterai textuellement les descriptions données par M. Nepveu:

"Salaires du personnel des trains et des locomotives

Le montant indiqué pour ce poste représente les salaires réels fondés sur le nombre de milles réclamés par le personnel employé sur le "Dominion" aux taux en vigueur pendant les périodes indiquées dans l'état, plus un montant

pour les vacances annuelles et autres postes improductifs basé sur un pourcentage.

“Combustible

Le coût du combustible a été établi d'après le nombre de milles parcourus par les locomotives diesel du “Dominion”, une consommation moyenne de 1.5 gallon par mille et par locomotive diesel du service des voyageurs et le prix moyen du combustible consommé sur le réseau. Le prix du combustible est, à cette fin, le prix à la raffinerie plus les droits et le fret étranger, s'il y a lieu, et les frais de livraison aux locomotives. Ce prix ne comprend pas le coût du transport sur la ligne de la compagnie.

“Autres dépenses des trains

Ce coût a été établi en premier lieu pour tout le service des voyageurs, d'après le nombre de wagons-milles, pour le nettoyage, le chauffage, l'éclairage, le graissage, la glace et l'eau et pour la climatisation des wagons, et d'après le nombre de trains-milles pour les autres dépenses de train. On a calculé le coût moyen par voiture-mille et ce coût a été appliqué au nombre de milles parcourus par les voitures du “Dominion”.

“Wagons-lits et wagons-salons

Le coût de la main-d'œuvre a été établi d'après les salaires réels payés au personnel affecté aux wagons-lits et aux wagons-salons du “Dominion” et celui des matériaux a été établi d'après le pourcentage du coût des matériaux par rapport à celui de la main-d'œuvre. Sont également comprises les dépenses de surveillance et de bureau du Service des wagons-lits, des wagons-restaurants et des wagons-salons qui ont été établies par l'application, au coût de la main-d'œuvre et des matériaux, du rapport de ces dépenses au coût total des salaires et des matériaux obtenu directement.

“Réparation des voitures

Le coût des réparations en atelier et celui des réparations en cours de route ont été établis séparément pour les voitures en service sur le “Dominion” pendant l'année 1964 et pendant les sept premiers mois de 1965. Pour les réparations en atelier, un coût mensuel moyen a été établi pour chaque classe de voitures d'après le nombre des voitures réparées en atelier durant les dernières années et l'intervalle entre les réparations. Ces coûts moyens ont ensuite été multipliés par le nombre de voitures de chaque classe en service sur le “Dominion” afin d'établir le coût des réparations en atelier pour chaque mois compris dans l'étude. Le coût des réparations en cours de route a été établi d'après le nombre de milles parcourus par les voitures en service sur le “Dominion” et le coût moyen des réparations en cours de route des voitures en service sur le réseau.

"Entretien de la voie

Les frais variables de l'entretien de la voie pour tout le service des voyageurs a en premier lieu été établi d'après les coefficients obtenus au moyen d'une analyse régressive. Un coût moyen par mille tonnes-milles brutes du service des voyageurs a été calculé et ce coût a été appliqué aux tonnes-milles brutes du "Dominion".

"Trafic

Des livres distincts sont tenus pour les dépenses afférentes au trafic-voyageurs. Ces dépenses comprennent les salaires et les dépenses des employés affectés uniquement au service des voyageurs et une proportion des salaires et des dépenses des employés affectés à la fois au service des voyageurs et au service des marchandises, déterminée d'après une analyse des fonctions. Le montant des dépenses afférentes au trafic du "Dominion" a été établi par l'application de la dépense moyenne afférente au trafic-voyageurs par dollar de recettes provenant du trafic-voyageurs aux recettes du trafic-voyageurs du "Dominion".

"Pensions et assurance-chômage

Le montant inclus pour la main-d'œuvre dans les frais variables du "Dominion" a été calculé d'après les pourcentages établis au moyen des comptes principaux dans une étude du contenu des dépenses du chemin de fer qui se rapportent à la main-d'œuvre. Le coût des pensions et de l'assurance-chômage pour le "Dominion" a été calculé par l'application au montant ainsi calculé pour la main-d'œuvre, des pourcentages des pensions et de l'assurance-chômage par rapport à la main-d'œuvre pour le réseau.

"Amortissement**Locomotives:**

L'amortissement des locomotives a été calculé au moyen de l'application du taux d'amortissement basé sur l'allocation uniforme approuvé par la Commission des transports du Canada pour l'année 1964 à la mise de fonds que représentent les locomotives utilisées pour l'exploitation du "Dominion".

Voitures:

L'amortissement des voitures a été calculé au moyen de l'application du taux d'amortissement basé sur l'allocation uniforme approuvé par la Commission des transports du Canada pour l'année 1964 à la mise de fonds que représentent les voitures nécessaires à l'exploitation du "Dominion". La mise de fonds que représentent les voitures nécessaires à l'exploitation du "Dominion" a été calculée au moyen de l'application, au nombre de voitures de chaque classe, de la mise de fonds moyenne par voiture de cette classe.

“Coût de l'argent**Voie:**

Le coût de l'argent pour la mise de fonds nette variable que représentent les biens de la voie a été calculé au moyen de l'application, aux tonnes-milles brutes du “Dominion”, d'un coût unitaire par mille tonnes-milles brutes établi au moyen d'une analyse régressive.

Locomotives:

Le coût de l'argent pour les locomotives a été calculé au taux de 11.4 p. 100 sur la mise de fonds nette que représentent les locomotives diesel nécessaires à l'exploitation du “Dominion”.

Voitures:

Le coût de l'argent pour les voitures a été calculé au taux de 11.4 p. 100 sur la mise de fonds nette que représentent les voitures nécessaires à l'exploitation du “Dominion”. L'amortissement accumulé a été calculé d'après l'âge moyen atteint par les voitures de chaque classe, pour obtenir l'amortissement net. Il n'a pas été inclus de coût de l'argent pour les voitures complètement amorties.”

Au cours du contre-interrogatoire de M. Nepveu, une attention particulière a été portée à l'amortissement. Comme il s'agit d'un élément important des dépenses et que certains aspects du sujet, y compris les taux d'amortissement de groupes de biens et les réclamations faites en vertu de la Loi de l'impôt sur le revenu, ne sont pas bien connus, je vais examiner la déposition et commenter les pratiques comptables un peu en détail.

M. Olson a posé des questions à M. Nepveu sur les montants d'amortissement réclamés à titre de frais variables du “Dominion” et sur la façon dont l'amortissement est considéré pour les fins de la présente cause et pour celles de l'impôt sur le revenu. M. Olson a soutenu que l'amortissement des voitures se poursuivra si le service est abandonné, que le coût non amorti des voitures sera toujours réclamé par la compagnie pour les fins de l'impôt sur le revenu, que les trains circulent ou non, et que, par conséquent, il n'y aura pas d'économie en tant que le public du Canada est concerné.

M. Nepveu a répondu qu'en effet, la compagnie suit la méthode de l'allocation uniforme dans le calcul de l'amortissement dans ses livres de comptabilité, ce qui est conforme aux prescriptions de la Commission, et qu'en déterminant l'amortissement pour les fins de l'impôt sur le revenu, l'allocation de coût en capital est fondée sur la valeur dégressive. Dans la méthode de l'allocation uniforme, quel que soit l'âge d'un wagon qui est encore en service, la compagnie continue d'en faire l'amortissement tant qu'il n'est pas désaffecté, vu que l'amortissement s'applique à un groupe. D'autre part, dans le cas où un wagon relativement neuf est démolé et désaffecté, il est retiré du compte de mise de

fonds et est débité à l'amortissement accumulé diminué de la valeur de récupération, puis la compagnie cesse l'amortissement de ce wagon, comme il est stipulé dans la Classification uniforme des comptes de la Commission.

En ce qui concerne l'amortissement, la Commission exige que les frais soient calculés conformément au plan d'amortissement par groupes et d'après la méthode de l'allocation uniforme, la méthode du degré d'usage ou de l'unité de production, la méthode de la valeur dégressive ou d'autres méthodes approuvées par la Commission. Pour les fins de la comptabilité d'amortissement par groupes, les comptes des biens sujets à l'amortissement, qui comprennent des biens de même nature, peuvent être groupés et un taux composite d'amortissement approprié peut être établi pour le calcul de l'amortissement de chaque groupe de biens. Ces taux sont déterminés d'après la valeur de service globale et les durées utiles convenablement pondérées de ces catégories de biens, et ils sont approuvés de temps à autre par la Commission. La durée utile pondérée se fonde sur l'expérience en ce qui concerne les durées utiles de tous les biens du groupe qui comprennent des biens ayant une grande durée utile et d'autres une durée utile moindre que la moyenne. Tout transporteur qui calcule l'amortissement d'après la valeur dégressive ou suivant une autre méthode approuvée par la Commission doit être prêt à présenter, sur demande, des registres des biens sujets à l'amortissement et des biens désaffectés, montrant la durée utile de ces biens, ainsi que des registres qui refléteront le pourcentage de la valeur de récupération des biens désaffectés pour chaque catégorie de biens sujets à l'amortissement.

Les comptables reconnaissent que l'utilisation de l'amortissement par groupes et des taux composites est une bonne méthode comptable et qu'elle fournit une solution pratique au problème du travail considérable que présente la tenue de comptes d'amortissement accumulé pour chaque bien; cette méthode est tout particulièrement utile et efficace lorsqu'un transporteur a un grand nombre de biens du même genre. Vu qu'en pratique, il arrive que certains biens d'un groupe ont une durée inférieure à la durée utile moyenne prévue pour ce groupe et que d'autres ont une durée plus longue que cette moyenne, il devient nécessaire de s'assurer au moyen de méthodes de comptabilité que la compagnie finira par obtenir dans ses comptes d'amortissement accumulé le plein montant de sa mise de fonds dans les biens qui avaient été inclus dans le groupe.

On y arrive en rayant du compte de mise de fonds et en imputant sur le compte d'amortissement accumulé les pertes dues à l'amortissement non récupéré des biens prématurément désaffectés, pertes qui sont plus tard compensées, dans le compte de réserve, par les accumulations pour l'amortissement des biens en service qui ont dépassé la durée moyenne d'utilité prévue. Si, comme il a été proposé, les transporteurs devaient cesser d'accumuler l'amortissement lorsque les voitures en service ont atteint la durée utile moyenne, les chemins

de fer devraient établir un taux dépassant 3.88 p. 100 et en demander l'approbation à la Commission, afin de tenir compte des pertes provenant des biens qui, pour une raison ou pour une autre, sont désaffectés avant d'avoir atteint la durée utile moyenne, de façon à éviter un déficit final au compte des accumulations pour l'amortissement. Une telle pratique négligerait de reconnaître le principe des moyennes que comportent les taux composites et la nécessité de la récupération entière de la mise de fonds dans les comptes des accumulations pour l'amortissement. Il faut mentionner que la Commission n'approuverait pas des accumulations pour l'amortissement d'un groupe de biens qui auraient pour résultat un amortissement accumulé supérieur à la mise de fonds de la compagnie dans ce groupe.

M. Olson a également posé des questions sur l'emploi par le Pacifique-Canadien de l'allocation de coût en capital ou méthode de valeur dégressive dans le calcul de l'amortissement pour les fins de l'impôt sur le revenu. Suivant cette méthode, la compagnie continue de réclamer aux fins de l'impôt, pour la valeur non amortie après que le bien a été désaffecté, puisque, comme l'a expliqué le témoin dont la déposition concernait le prix de revient, "cette méthode ne prévoit pas l'amortissement complet de l'allocation de coût en capital pendant la durée du matériel, et il reste toujours des soldes." M. Olson a souligné que l'amortissement continuerait pour les fins de l'impôt sur le revenu, dans le cas des wagons utilisés sur le "Dominion" si ce train était abandonné, que ces wagons soient désaffectés ou non. Cette pratique, a-t-il déclaré, réduirait le montant d'impôt sur le revenu de la compagnie au détriment des autres contribuables.

Toutes les compagnies peuvent se prévaloir des avantages qu'offre, aux fins de l'impôt sur le revenu, le calcul de l'amortissement par la méthode d'allocation de coût en capital et ce procédé est approuvé par le ministère du Revenu national. Cette méthode permet un taux d'amortissement plus élevé que celui qui est approuvé par la Commission et, dans le cas du matériel d'un réseau ferroviaire, y compris ses wagons, ce taux est fixé par règlement à 6 p. 100 et s'applique à la valeur dégressive des biens jusqu'à ce que ces biens aient été amortis complètement. Il en résulte, pour la déduction aux fins de l'impôt sur le revenu pendant les premières années, un amortissement plus élevé que ne permettrait la méthode d'allocation uniforme et une prolongation de la période durant laquelle l'amortissement pourra être fait par montants devenant graduellement plus petits, après la fin de la durée utile du bien.

Dans les deux cas, que ce soit la méthode d'allocation de coût en capital employée par la Commission et par le Pacifique-Canadien pour établir les prix de revient ou la méthode d'amortissement suivant la valeur dégressive, permise pour les fins de l'impôt sur le revenu, une compagnie ne peut recouvrer plus que la mise de fonds globale dans un groupe de biens. Il en est ainsi dans le plan d'amortissement par groupes bien que la chose ne soit pas toujours évidente

en pratique, particulièrement vers la fin de la durée utile d'une unité en particulier. J'en arrive à la conclusion que l'amortissement imputé sur les dépenses dans la cause présente fait partie du prix de revient de l'exploitation du train et devrait être accordé même si le ministère du Revenu national accepte un montant différent pour les fins de l'impôt sur le revenu et même si l'amortissement relatif aux voitures peut continuer à être réclamé après la suppression du "Dominion".

Pour déterminer si l'estimation des frais variables est raisonnable, la Commission examine si la totalité de ces frais serait économisée en cas d'abandon. Ces prétendus "frais évitables" constituent un facteur de dépense minime à faire entrer en ligne de compte en comparant les avantages qu'apporterait à la compagnie la discontinuation d'une exploitation déficitaire avec le besoin qu'a le public du service en cause. Il existe d'autres frais variables que la Commission pourrait reconnaître si elle considérait le coût de la continuation de l'exploitation; entre autres, les frais variables à long terme que sont les nouveaux investissements dans une exploitation déficitaire qui pourraient être évités, par exemple, le remplacement de matériel et la reconstruction de ponts à des prix plus élevés pour les matériaux et la main-d'œuvre. Ces frais tombent dans les catégories de l'amélioration financière et des avantages à long terme qui résulteront de la discontinuation, mais ce sont des frais que je n'ai pas à considérer dans la présente cause, sauf si je trouve que, considérée seulement en elle-même, l'économie qui résulterait, pour la compagnie, de l'élimination du déficit annuel est compensée par la perte et l'inconfort qui résulteraient, pour le public, de la suppression du "Dominion".

A ce point, je désire me reporter au raisonnement selon lequel les salaires du personnel ne seraient pas des dépenses évitables et qu'il faudrait tenir compte dans les recettes et les dépenses du rétablissement du service de trafic à l'avant sur le "Dominion".

On a soutenu que les salaires du personnel du "Dominion" n'étaient pas des frais évitables, vu que, si ce train était discontinué, ce personnel travaillerait sur d'autres trains et gagnerait sur ces autres trains l'équivalent de ce qu'il gagne sur le "Dominion", et que, par conséquent, les salaires du personnel du "Dominion" ne sont pas des dépenses qui peuvent être incluses dans les frais de ce train pour la détermination de son déficit.

Je suis d'avis que cet argument n'est pas fondé. Si le personnel du "Dominion" travaille sur d'autres trains, les salaires pour ce service sont des dépenses de ce service, des dépenses faites pour l'exploitation de ce service et qui lui sont imputables. Ces salaires ne sauraient être à la fois un coût de ce service et un coût du "Dominion". Le coût des salaires du personnel du "Dominion" est éliminé si ce train est supprimé, et ce fait demeure même si un autre service emploie par la suite les employés qui étaient affectés au "Dominion".

Un argument assez semblable a été apporté au sujet du service des marchandises qui étaient transportées dans les wagons à l'avant du "Dominion" et qui a été supprimé sur ce train, ce trafic ayant été confié aux trains de marchandises rapides sur lesquels, a-t-on allégué, ce transport entraînera des frais, de sorte que les frais de ce transport sur le "Dominion" ne constituent pas des frais variables de ce train pouvant entrer en ligne de compte dans la détermination de son déficit. Cependant, les recettes provenant de ce trafic sur le "Dominion" comptent dans la détermination des recettes de ce train et de sa situation déficitaire et sont mises en compensation avec les frais du train. Ces frais et recettes sont bien applicables à ce train tant que le service est assuré par lui. Si ce trafic cesse d'être transporté sur le "Dominion" et qu'il est transporté par les trains de marchandises rapides, les frais et les recettes cessent pour le "Dominion" et les uns et les autres s'appliquent aux trains de marchandises rapides.

Évidemment, l'argument vaut en ce sens que le transport par les trains de marchandises rapides du trafic qui était auparavant transporté dans les wagons à l'avant du "Dominion" entraîne des frais pour ces trains de marchandises rapides et que les frais et recettes afférents à ce trafic constituent un facteur dans la détermination des économies que la cession de ce trafic du "Dominion" permettra à la compagnie de réaliser.

On a déclaré que le trafic des wagons à l'avant du "Dominion" est maintenant transporté par les trains de marchandises rapides et par les services routiers (pas nécessairement le même trafic, parce que la concurrence et d'autres facteurs influent sur le volume et le genre des marchandises transportées); que le coût du transport du trafic par les trains de marchandises rapides, dans des wagons à marchandises et non dans des wagons à messageries comme sur le "Dominion", est inférieur au coût du transport de ce trafic par le "Dominion", car, entre autres choses, le poids moyen d'un wagon à messageries varie entre 45 et 50 tonnes tandis que celui d'un wagon à marchandises ordinaire est de 23 tonnes. Le Pacifique-Canadien n'a pas fourni les chiffres des recettes et des dépenses relatives au transport de ce trafic par les trains de marchandises rapides et par les services routiers ni le bénéfice net résultant pour la compagnie de la cession de ce trafic du "Dominion".

Il n'a pas été donné de chiffres sur l'avantage financier net résultant pour le Pacifique-Canadien de la cession à d'autres services, du trafic des wagons à l'avant mais, comme la Commission a entendu de nombreuses causes de trains de voyageurs et est bien au courant des frais et des recettes des trains de voyageurs et des trains de marchandises, le personnel de la Commission et moi-même, forts de ces connaissances, sommes d'avis que l'avantage net qui résultera pour le Pacifique-Canadien de la cession du trafic des wagons à l'avant du "Dominion" et de la discontinuation de ce train sera considérable.

Je suis également d'avis qu'aucune raison valable ne justifie le rétablissement du transport de trafic à l'avant par le "Dominion" et de l'exploitation de ce train comme elle se faisait avant juin de l'année dernière, compte tenu des voyageurs transportés, des recettes et des dépenses du train, de sa commodité et de sa nécessité pour le public, et des changements importants survenus dans les services des marchandises et les trains de marchandises rapides.

Je ne crois pas non plus que le train doive redevenir ce qu'il était avant 1960, alors qu'il était durant toute l'année un train de voyageurs classique comprenant des voitures ordinaires, des wagons-restaurants, des wagons-lits et du trafic à l'avant. Au cours des quelques dernières années de cette exploitation, il a subi une diminution du nombre des voyageurs, sauf pendant la saison estivale, à tel point que sa composition qui était complète pendant les vacances de l'été devait être réduite pour le reste de l'année.

Dans ces circonstances, la Commission n'a pas jugé nécessaire de faire une étude serrée pour déterminer en dollars le déficit du "Dominion" en 1964 ou dans une période durant laquelle il transportait du trafic à l'avant et l'avantage net résultant, pour le Pacifique-Canadien, de la session de ce trafic à d'autres services.

Il s'agit de déterminer si le "Dominion" doit ou non continuer à être exploité pendant toute l'année ou pendant une partie de l'année comme train de voyageurs sans trafic à l'avant.

M. Nepveu a donné la description ci-après des critères et méthodes utilisés dans l'établissement des recettes du train:

"Voyageurs"

Pour le calcul des recettes du service des voyageurs, le nombre de voyageurs-milles payants a été établi pour chaque parcours d'après le nombre de voyageurs transportés, répartis en voyageurs sur tout le parcours et voyageurs entre points intermédiaires, suivant les chiffres donnés dans la formule IDP 352 par les chefs du train, et le nombre de milles du parcours du chef de train. Le nombre de voyageurs-milles payants a alors été multiplié par le revenu moyen par voyageur-mille pour le parcours, établi par des contrôles faits périodiquement pour déterminer et le revenu par voyageur-mille et la distance parcourue par les voyageurs entre points intermédiaires sur chaque parcours.

Wagons-lits et wagons-salons

Les recettes possibles de l'espace disponible sur le "Dominion" ont été établies d'après les prix en vigueur des places de wagon-lit et de wagon-salon. On a alors calculé les recettes du "Dominion" pour la période indiquée à la page 2 de l'état n° 2 en appliquant le rapport entre le nombre de

voyageurs transportés et le nombre total d'espaces disponibles aux recettes possibles.

Wagons-restaurants et wagons-buffets

Les recettes des wagons-restaurants et des wagons-buffets ont été tirées des rapports quotidiens de ventes d'aliments et de breuvages des commis aux vivres des wagons-restaurants et des garçons de wagon-buffet.

Courrier

Les recettes du courrier sont les recettes réelles, pour le train, provenant du transport du courrier dans les wagons-postes et les fourgons à bagages et inscrites par notre service du courrier et des bagages.

Messageries

Les recettes du service des messageries ont été calculées d'après le nombre de wagons-milles de messageries transportées et les recettes moyennes par wagon-mille de messageries transportées pour chaque mois.

Lait

Les recettes provenant du transport du lait ont été établies d'après les coupons vendus par les agents pour le transport du lait entre les points desservis par le "Dominion".

Consigne - Colis et bagages

On a estimé les recettes provenant de ces deux sources en appliquant aux recettes-voyageurs du "Dominion" pour chaque mois les pourcentages des recettes du réseau provenant des privilèges de gare et de train et de la consigne - colis et bagages - par rapport aux recettes-voyageurs du réseau pour le mois en cause."

M. Nepveu, en contre-interrogatoire, a élargi sa description des recettes du service des voyageurs:

"Nous avons fait périodiquement des études de contrôle. C'est notre vérificateur des comptes du service des voyageurs qui fait ce travail. Il prend les billets remis par les chefs de train et tient compte des perceptions en espèces, puis fait une étude détaillée du nombre de milles, de la distance entre les points mentionnés sur les billets et de la valeur des billets et obtient ainsi une moyenne par voyageur-mille. Le résultat reflète le niveau des prix de passage et la composition du trafic. Il existe toutes sortes de prix de passage; et il y a des prix de passage réduits. Aussi ces épreuves sont-elles effectuées pendant des périodes qui sont considérées comme représentatives".

"Nous avons pris les recettes, comme je l'ai dit, provenant de billets déterminés et de perceptions en espèces sur des parcours donnés, choisis à

titre d'échantillons, et nous avons établi pour chaque parcours de chef de train une moyenne par voyageur-mille en nous fondant sur ces billets et ces perceptions en espèces. C'est une chose qui se fait régulièrement."

"Ce travail n'a pas été fait pour l'étude relative à la présente cause car nous n'aurions pas pu produire un état des recettes du "Dominion" dans le délai fixé par la Commission. Nous avons donc établi ces recettes moyennes par voyageur-mille, puis comme les parcours de chef de train nous fournissent le nombre de voyageurs et la distance, nous avons établi le nombre de voyageurs-milles pour chaque parcours de chef de train et nous avons appliqué les recettes moyennes par voyageur-mille qui sont considérées comme représentatives pour ce parcours."

M. Nepveu a donné aussi sur la méthode suivie pour le calcul des recettes du "Dominion" pour l'année établie par déduction commençant le 7 septembre 1965, les explications suivantes:

"Prix de passage

Les recettes moyennes par voyageur ont été déterminées pour chaque train pour chacun des quatorze parcours de chef de train entre Montréal-Toronto et Vancouver d'après un relevé, fait sur place durant une semaine, des voyageurs payants transportés pendant la période du 9 au 17 septembre 1965. La valeur des billets a été fixée d'après les tarifs en vigueur au moment où le relevé a été effectué.

Les recettes moyennes ainsi déterminées ont alors été multipliées par le nombre estimatif de voyageurs payants qui pourraient être transportés pendant l'année fictive commençant le 7 septembre 1965.

Le nombre estimatif de voyageurs en voiture ordinaire a été établi d'après le nombre réel de voyageurs payants transportés en voiture ordinaire pendant la période de douze mois terminée le 31 juillet 1965. Ce nombre réel de voyageurs a été redressé en lui appliquant le pourcentage de modification entre le nombre de voyageurs payants transportés en voiture ordinaire pendant la période d'une semaine allant du mardi 7 septembre 1965 au lundi 13 septembre et le nombre de ces voyageurs transportés pendant une période semblable de l'année précédente allant du mardi 8 septembre au lundi 14 septembre 1964. Le nombre estimatif total de voyageurs en voiture ordinaire a été limité au nombre estimatif maximum de places en voiture ordinaire du train. Le nombre de places disponibles a été établi d'après le nombre réel de places en voiture ordinaire prévu dans la composition actuelle, moins 5 p. 100, soit 3 places par voiture, pour recevoir les enfants de moins de cinq ans. Pour obtenir la capacité maximum, ce chiffre a été augmenté du rapport entre le nombre maximum de voyageurs payants dans le train en même temps et le nombre moyen de voyageurs payants transportés par voyage, déterminé au moyen du relevé d'une semaine effectué en septembre 1965.

Le nombre annuel estimatif de voyageurs en première classe a été établi d'après une estimation effectuée par le directeur du service des wagons-lits, wagons-restaurants et wagons-salons selon laquelle l'occupation moyenne est de 60 p. 100 sur les trois parcours pour lesquels un service de wagons-lits est assuré, soit entre Montréal et Sudbury, Toronto et Sudbury, Winnipeg et Fort William, et l'occupation moyenne du wagon-salon entre Montréal et Ottawa est de 50 p. 100. Le nombre estimatif annuel de voyageurs en première classe a été réparti entre les voyageurs payants et les voyageurs munis d'un permis de passage, d'après la répartition de ces voyageurs sur chacun des parcours susmentionnés pendant l'année terminée le 31 juillet 1965. Aucun redressement n'a été effectué dans ces estimations pour les réductions de prix de passage entrées en vigueur le 1^{er} octobre 1965.

"Recettes des wagons-lits, des wagons-salons et des wagons-buffets

Les recettes annuelles estimatives des wagons-lits et des wagons-salons sont fondées sur une occupation moyenne de 50 p. 100 pour les wagons-lits et de 50 p. 100 pour les wagons-salons.

Le directeur du service des wagons-lits, wagons-restaurants et wagons-salons a estimé les recettes des wagons-buffets en se fondant sur celles de la période allant du 10 au 15 septembre 1965."

"Recettes du service des bagages

Les recettes annuelles estimatives provenant des excédents de bagages ont été établies par la projection sur une année entière des recettes de la période d'une semaine sur laquelle a porté le relevé."

Voyageurs transportés

Le Pacifique-Canadien a déposé plusieurs états montrant le nombre de voyageurs payants transportés par le "Dominion" dans sa composition actuelle, dans celle de 1964 et dans celle des sept mois de janvier à juillet 1965.

L'état n° 3 de la pièce 25, qui montre le nombre de voyageurs transportés par parcours de chef de train entre différentes villes, est reproduit ci-après. En 1964, le nombre moyen de voyageurs transportés a varié d'un minimum d'environ 65 par jour entre Sudbury et North Bay à un maximum d'environ 130 entre Toronto et Sudbury. Ces chiffres comprennent le trafic de pointe de l'été. Dans le nombre de voyageurs transportés sont compris les voyageurs dans le train pendant la totalité ou une partie du parcours d'un chef de train; les voyageurs directs sont comptés deux fois ou plus s'ils voyagent sur plus d'un parcours de chef de train.

COMPAGNIE DE CHEMIN DE FER DU PACIFIQUE-CANADIEN

Voyageurs payants transportés sur le "Dominion",
par parcours de chef de train

	Année	Période de sept mois de janvier à juillet	
	1964	1965	1964
En direction ouest			
Toronto – Sudbury	37,437	18,041	23,311
Montréal – Ottawa	43,595	23,057	26,241
Ottawa – North Bay	31,445	15,895	18,829
North Bay – Sudbury	24,060	12,270	14,232
Sudbury – Chapleau	34,606	18,658	20,109
Chapleau – Fort William	39,533	21,014	23,001
Fort William – Winnipeg	33,843	17,453	19,945
Winnipeg – Brandon	31,434	17,253	17,997
Brandon – Moose Jaw	43,861	23,720	24,936
Moose Jaw – Medicine Hat	36,162	19,434	20,736
Medicine Hat – Calgary	33,779	17,397	18,599
Calgary – Field	28,501	14,553	16,584
Field – Kamloops	28,149	14,459	15,463
Kamloops – Vancouver	29,558	15,341	16,371
En direction est			
Vancouver – Kamloops	28,531	12,772	15,355
Kamloops – Field	26,243	11,792	13,711
Field – Calgary	30,098	12,914	15,706
Calgary – Medicine Hat	35,305	16,027	18,357
Medicine Hat – Moose Jaw	36,214	17,290	18,343
Moose Jaw – Brandon	45,895	22,603	24,069
Brandon – Winnipeg	35,232	16,529	17,672
Winnipeg – Fort William	38,481	17,639	20,108
Fort William – Chapleau	39,954	18,987	20,675
Chapleau – Sudbury	36,264	16,834	18,302
Sudbury – North Bay	23,877	10,977	13,546
North Bay – Ottawa	28,901	12,409	16,547
Ottawa – Montréal	26,336	12,453	14,574
Sudbury – Toronto	47,423	20,904	27,918

Remarque: Établi d'après les données fournies par les chefs de train dans le Rapport sur les trains de voyageurs, formule IDP 352.

La pièce 51, reproduite ci-après, montre le nombre de voyageurs payants du train dans sa composition actuelle, basé sur un parcours de chef de train, pour la période allant du 9 septembre au 8 octobre 1965. Il montre les moyennes par voyage et l'équivalent par train-mille. Les moyennes varient d'un minimum de 10.4 entre Calgary et Field à un maximum de 70.1 entre Montréal et Ottawa. Il s'agit d'une période où le nombre de voyageurs transportés est inférieur à celui d'autres mois, particulièrement dans la région des prairies où la moisson est en cours.

PIÈCE 51

État sommaire du nombre de voyageurs payants transportés par les trains 3-13 et 4-14
entre Montréal-Toronto et Vancouver, pendant une période de 28 jours,
soit du 9 septembre au 8 octobre 1965, montrant:

(A) Nombre moyen de voyageurs payants transportés par voyage

(B) Nombre équivalent de voyageurs payants transportés par train-mille

Parcours	Train 3-13		Train 4-14		Trains 3-13 et 4-14	
	Moyenne par voyage	Équivalent par train-mille	Moyenne par voyage	Équivalent par train-mille	Moyenne par voyage	Équivalent par train-mille
Montréal	(A)	(B)	(A)	(B)	(A)	(B)
Ottawa	61.2	59.3	79.0	68.6	70.1	64.0
North Bay	32.4	24.1	25.4	21.4	28.9	22.8
Sudbury	25.2	24.5	20.8	20.0	23.0	22.3
Toronto	30.6	26.7	39.4	36.3	35.0	31.5
Sudbury	45.3	34.2	35.5	28.2	40.4	31.2
Chapleau	48.4	18.2	40.4	14.7	44.4	16.5
Fort William	19.1	15.9	18.1	13.8	18.6	14.8
Winnipeg	19.7	18.5	17.7	16.7	18.7	17.6
Brandon	28.5	19.1	21.6	13.2	25.1	16.1
Moose Jaw	20.5	17.7	12.0	10.6	16.3	14.1
Medicine Hat	18.2	17.4	12.1	11.3	15.1	14.4
Calgary	12.8	10.7	8.0	6.0	10.4	8.4
Field	15.4	10.5	7.0	4.6	11.2	7.5
Kamloops	21.8	18.6	12.4	8.0	17.1	13.3
Vancouver						

La pièce 52 montre le nombre de voyageurs du "Dominion" transportés récemment sur de grandes distances, par exemple de Montréal et Toronto à Winnipeg et à l'ouest de Winnipeg. Ces voyageurs étaient très peu nombreux et comme personne ne soutient que le train actuel est attrayant pour ces distances, je n'en donnerai pas le détail.

La pièce 53 montre le nombre de voyageurs en wagon-lit et en wagon-salon pendant la période allant du 9 septembre au 8 octobre 1965 sur les parcours sur lesquels ce train comprend de tels wagons, c'est-à-dire entre Montréal et Ottawa, Toronto et Sudbury, Montréal et Sudbury et Fort William et Winnipeg. Ce nombre est en moyenne de 3.3 à 12.1 par voyage.

La pièce 54 tend à démontrer combien de voyageurs seraient montés dans le "Dominion" ou en seraient descendus au cours de la période allant du 9 septembre au 7 octobre 1965 aux gares situées sur le parcours entre Brandon et Medicine Hat si ce train avait été exploité seulement entre Brandon et Medicine Hat, c'est-à-dire en ne comptant que les voyageurs locaux. L'état comprend 16 pages. La moyenne quotidienne la plus élevée, pour une semaine, des voyageurs payants qui sont montés dans le train ou qui en sont descendus a été de 8.9 entre Brandon et Moose Jaw.

M. Warren a dit dans sa déposition qu'en juillet 1965, le "Dominion" a transporté en première classe un total de 3,798 voyageurs directs partis de Vancouver à destination de l'est et que, sur ce nombre, 2,334 étaient des voyageurs de voyages organisés. De Winnipeg, en direction ouest, en juillet, ce train a transporté 4,282 voyageurs en première classe, dont 1,557 étaient des voyageurs de voyages organisés. Dans ce même mois, les voyages spéciaux en voiture ordinaire ont compté 2,401 voyageurs partis de Vancouver à destination de l'est, et sur ce nombre 390 étaient des voyageurs de voyages organisés. Les voyageurs des voyages spéciaux en voiture ordinaire partis de Winnipeg à destination de l'ouest ont été au nombre de 4,799, dont 297 étaient des voyageurs de voyages organisés. Lorsque des voyages spéciaux ont lieu, des touristes voyagent indépendamment, ce qui ajoute environ 20 p. 100 au nombre de voyageurs des voyages spéciaux, selon M. Warren. Le nombre total de voyageurs, en première classe et en voiture ordinaire, partis de Vancouver à destination de l'est a été de 6,199 et celui des voyageurs partis de Winnipeg à destination de l'ouest, de 9,081. Ceci pour le mois de juillet 1965. Deduction faite des voyageurs de voyages organisés et du trafic périphérique qui résulte de ces voyages, les moyennes quotidiennes du nombre de voyageurs payants du "Dominion", en juillet, ont été les suivantes: à destination de l'est, partis de Vancouver, 32 en première classe et 65 en voiture ordinaire; à destination de l'ouest, partis de Winnipeg, 74 en première classe et 145 en voiture ordinaire. Le "Canadian" s'occuperait de certains de ces voyageurs après la suppression du "Dominion" et, selon M. Warren, la majeure partie du trafic touristique irait aux chemins

de fer Nationaux du Canada. Dans le passé, le Pacifique-Canadien a sollicité d'une manière agressive ce trafic touristique mais n'a pas l'intention de le faire à l'avenir.

M. Warren a affirmé aussi que le "Canadian" est rarement rempli à capacité même durant les mois d'été. Il a donné du pourcentage d'occupation les exemples suivants:

En juillet 1965,	vers l'ouest à partir de Sudbury	80%
	vers l'ouest à partir de Winnipeg	78%
	vers l'ouest jusqu'à Vancouver	71%
	vers l'est à partir de Vancouver	71%
	vers l'est à partir de Calgary	81%
	vers l'est à partir de Winnipeg	78%
En novembre 1964,	vers l'ouest à partir de Sudbury	56%
	vers l'ouest à partir de Winnipeg	56%
	vers l'ouest jusqu'à Vancouver	48%
	vers l'est à partir de Vancouver	42%
	vers l'est à partir de Calgary	53%
	vers l'est à partir de Winnipeg	56%

Des trains supplémentaires sont mis en service pour le trafic de Noël.

A partir du 7 septembre 1965, seize nouveaux arrêts ont été ajoutés sur le parcours du "Canadian" à titre d'arrêts facultatifs pour les voyageurs payants, et des restrictions qui s'appliquaient auparavant à certains arrêts de ce train ont été levées afin de desservir des endroits antérieurement desservis par le "Dominion". Pour permettre au "Canadian" de faire ces arrêts supplémentaires, la durée de son parcours a été augmentée d'une heure et quinze minutes en direction ouest et d'une heure et dix minutes en direction est.

Si cette durée de parcours supplémentaire est le seul inconvénient que subira le "Canadian", je ne crois pas que le mal soit bien grand. L'expérience permettra peut-être de constater des inconvénients plus graves, mais je ne crois pas que cette durée plus longue du parcours du "Canadian" lui nuise au point de réduire sensiblement le nombre de ses voyageurs. Le "Canadian" continuera, à mon avis, d'être un train très attrayant et d'avoir une nombreuse clientèle, sauf s'il devient trop rempli et trop long, s'il comprend trop de voitures et pas assez d'installations de restaurant.

M. Warren a également dit que les voitures ordinaires du "Canadian" ne sont remplies à capacité qu'en de très rares occasions et entre quelques points seulement. Par exemple, il a mentionné que, le jour où il a témoigné à Winnipeg, le "Canadian" avait 207 places ordinaires, mais qu'au départ de Calgary, il n'y avait que 23 voyageurs en voiture ordinaire. Il estime que l'horaire du "Canadian" lui permettra de prendre le trafic de wagon-lit entre Montréal et

Sudbury, Toronto et Sudbury et Fort William et Winnipeg qui utilise actuellement le "Dominion".

Il a ajouté qu'en général le matériel composant le "Dominion" est lourd et démodé, et que le Pacifique-Canadien ne possède pas le matériel supplémentaire en acier inoxydable ni les voitures à air climatisé mécaniquement qui seraient nécessaires pour exploiter un second train selon les normes du "Canadian".

Mémoire du gouvernement de la Saskatchewan; réponse du Pacifique-Canadien; constatations et conclusions à ce sujet

Le gouvernement de la Saskatchewan s'est opposé à la suppression du "Dominion" en Saskatchewan mais il a dit n'avoir pas qualité pour parler des effets de cette suppression dans les autres parties du Canada et il s'est contenté de demander dans son mémoire que le service local de voyageurs sur la ligne principale du Pacifique-Canadien en Saskatchewan continue d'être assuré, qu'il soit au moins équivalent au service présentement assuré par le "Dominion" et que ce service soit mieux adapté, si possible, aux besoins de la population de la Saskatchewan. Il a proposé un autorail.

A l'appui de sa demande, le gouvernement a souligné qu'une grande partie de la province est desservie par la ligne principale du Pacifique-Canadien, que plus de 217,000 personnes habitent les villes, les villages et les municipalités rurales traversés par la ligne et que tout le sud de la Saskatchewan, dont la population est d'environ 426,000, dépend de cette ligne; que le "Dominion" arrête à 15 endroits en Saskatchewan; que le "Canadian" ne peut offrir un service de transport local équivalent aux habitants de la Saskatchewan parce qu'il traverse la province tard le soir; que le nombre de voyageurs transportés par le "Dominion" en 1964 a été en direction ouest, de 43,861 de Brandon à Moose Jaw, et de 36,162 de Moose Jaw à Medicine Hat; en direction est, de 36,214 de Medicine Hat à Moose Jaw et de 45,895 de Moose Jaw à Brandon; que la suppression du service de voyageurs local sera cause de difficultés et d'inconvénients pour les gens de la Saskatchewan qui utilisent le "Dominion".

Dans sa réponse, le Pacifique-Canadien a mentionné que la route trans-canadienne est à peu près parallèle et est adjacente à la ligne du Pacifique-Canadien sur tout son parcours dans la province et que les chiffres donnés ci-dessus relativement aux voyageurs transportés comprennent les voyageurs des groupes organisés. La compagnie a en outre déposé les pièces 45 et 46 qui donnent des estimations de ce que seraient les recettes et les frais d'un service d'autorail si un tel service était établi. D'après la pièce 45, les recettes annuelles estimatives seraient de \$49,000 et les frais de \$441,800 pour une seule voiture automotrice, ce qui représente un déficit de \$391,900. La pièce 46 indique que les frais d'exploitation estimatifs d'une unité automotrice de deux voitures seraient de \$698,322. La compagnie a aussi mentionné le petit nombre de

voyageurs qui ont utilisé le "Dominion" en Saskatchewan en 1965 et a rappelé l'expérience antérieure d'un service d'autorail en Saskatchewan.

En réponse, l'avocat de la Saskatchewan a soutenu que le montant des recettes du service d'autorail proposé est sous-estimé par la compagnie et les frais surestimés; que d'autres voyageurs pourraient être attirés si le service était assuré à des heures commodes et faisait l'objet d'une publicité appropriée; que tout déficit subi serait moindre que celui de l'exploitation actuelle et qu'il serait si faible qu'il ne pourrait l'emporter sur les inconvénients que causerait au public la suppression totale du service.

Le personnel de la Commission a étudié les pièces relatives à un service entre Brandon et Medicine Hat et a demandé des renseignements supplémentaires à la compagnie sur les méthodes appliquées à l'estimation des recettes et des dépenses.

Durant la période sur laquelle a porté l'étude, soit du 9 septembre au 7 octobre 1965, les voyageurs des trains qui ont circulé entre Brandon et Medicine Hat ont été comptés et le pourcentage de ces voyageurs qui auraient utilisé un service local entre Brandon et Medicine Hat a été déterminé. Ce pourcentage a été appliqué au nombre total des voyageurs transportés entre Brandon et Medicine Hat durant la période de douze mois allant du 1^{er} août 1964 au 31 juillet 1965, à l'exclusion des groupes spéciaux.

A mon avis, il y a deux éléments qui expliquent que cette méthode ait pu donner une estimation du nombre de voyageurs d'un service local inférieur à ce que serait réellement ce nombre. En premier lieu, la saison des récoltes peut avoir diminué le pourcentage des voyageurs locaux et, deuxièmement, un horaire différent pourrait attirer des voyageurs supplémentaires dans les régions que le "Dominion" traverse la nuit. Toutefois, je ne crois pas que ces deux facteurs aient influé sur l'estimation dans une très grande mesure.

Les recettes provenant des voyageurs ont été calculées en multipliant le nombre de voyageurs locaux par les recettes moyennes par voyageur local durant la période en cause. J'estime que ces recettes moyennes par voyageur local durant la période qui a servi à l'étude représente assez exactement ce que serait la moyenne dans une période de douze mois. Le nombre estimatif de voyageurs locaux multiplié par les recettes moyennes par voyageur a donné des recettes annuelles d'environ \$50,000 pour le service proposé.

Au premier abord, cette estimation de \$50,000 peut paraître un peu basse par rapport aux recettes totales du "Dominion". Toutefois, une étude des voyageurs transportés indique que les voyageurs locaux représentent moins de 20 p. 100 du total des voyageurs des trains directs et que la longueur de moyenne de leur parcours est moindre. Si un cinquième des voyageurs locaux faisait la moitié de la distance, ces voyageurs n'apporteraient qu'environ un dixième des

recettes totales apportées par les voyageurs d'un train direct, c'est-à-dire \$50,000 sur \$500,000. Je ne crois pas que l'estimation de \$50,000 de recettes provenant des voyageurs locaux soit déraisonnable mais, comme je l'ai dit plus haut, elle peut être un peu basse. Cependant, j'estime que ces recettes ne sauraient dépasser \$75,000 à \$100,000 par année pour le service proposé.

Pour le nombre estimatif de voyageurs qui utiliserait ce service, il suffirait d'une seule voiture automotrice dont les frais d'exploitation annuels ont été estimés à \$441,800 par la compagnie. Je réduirais cette estimation en conformité des observations que j'ai faites sur les estimations extrapolées de 1965-1966, mais je ne réduirais pas l'estimation des dépenses à moins de \$350,000 aux fins de mon jugement dans cette cause.

Les déductions que je fais comprennent \$40,000 de salaires, ce qui ne signifie pas que la Commission désapprouve la méthode suivie par le chemin de fer pour estimer les salaires du personnel. La compagnie a prévu la manutention de bagages enregistrés, ce qui exigerait un personnel de trois hommes sur l'autorail. Toutefois, la Commission estime que le service pourrait être assuré sans manutention de bagages enregistrés, ce qui supprimerait le besoin d'un des trois membres du personnel qui comprenait:

un mécanicien de locomotive	à \$16.37 par 100 milles,
un chef de train	à \$11.90 par 100 milles,
un préposé aux bagages	à \$ 9.68 par 100 milles;
personnel de 3 membres	\$37.95 par 100 milles.

La distance par le chemin de fer entre Brandon et Medicine Hat est de 523.8 milles, ce qui donne une distance de 1,047.6 milles à parcourir chaque jour, soit environ 382,000 milles par année. Les salaires du personnel à \$37.95 par 100 milles plus les vacances et les allocations diverses s'élèvent à \$158,835, soit plus de trois fois les recettes annuelles estimatives. L'élimination du préposé aux bagages réduirait cette somme d'environ \$40,000, mais il resterait encore \$118,000 de salaires à payer annuellement aux mécaniciens et chefs de train affectés à ce service.

Comme je l'ai dit plus haut, je ferais d'autres déductions mais elles ne réduiraient pas le montant estimatif des dépenses annuelles totales à moins de \$350,000, de sorte qu'on pourrait s'attendre que le service d'autorail proposé ait un déficit annuel de quelque \$250,000, même si l'on admet le maximum de \$100,000 de recettes et le minimum de \$350,000 de dépenses.

Lorsque seulement une ou deux voitures de voyageurs sont nécessaires, l'exploitation d'autorails est moins coûteuse que celle de trains de voyageurs conventionnels et ceux-ci ont été remplacés par des autorails dans certaines régions. Toutefois, il y a eu aussi des autorails qui ont été très loin de faire leurs frais d'exploitation parce que le nombre de leurs voyageurs était insuffisant.

La Commission a entendu des causes relatives à la discontinuation de services d'autorail qui avaient remplacé des services de trains de voyageurs conventionnels.

On peut appliquer au cas de la Saskatchewan, les observations et les recommandations de la Commission MacPherson relativement aux services de voyageurs ferroviaires qui ne sont pas économiques dans les cas où il existe entre les principaux points desservis par le chemin de fer une route publique qui peut raisonnablement le remplacer.

Étant donné la population des villes et des villages situés sur la ligne principale du Pacifique-Canadien en Saskatchewan, la contiguïté de la route transcanadienne, l'expérience relative au transport des voyageurs par le "Dominion" entre Brandon et Medicine Hat et la tendance générale vers l'emploi de l'automobile et de l'autobus de préférence au train pour les distances courtes et moyennes, je ne puis conclure que le service d'autorail à travers la Saskatchewan que demande le gouvernement pourrait être exploité sans déficit considérable ni que l'inconfort que causerait au public la privation d'un service ferroviaire local de voyageurs soit assez importante pour justifier une ordonnance de la Commission enjoignant au Pacifique-Canadien d'inaugurer un service d'autorail et d'en subir les déficits. Je ne crois pas qu'il y ait lieu d'ordonner à la compagnie d'inaugurer un tel nouveau service dans les circonstances.

Conclusions

J'en suis venu aux conclusions ci-après, qui s'ajoutent à celles que j'ai déjà exposées:

Concessions de terrains et subventions; le contrat de 1880 et la loi de 1881

La Commission des transports du Canada et les commissions royales ont étudié à plusieurs reprises la question des concessions de terrains et des subventions accordées à la compagnie de chemin de fer du Pacifique-Canadien en vertu du contrat de 1880 passé entre le gouvernement du Canada et un syndicat qui devait former la compagnie de chemin de fer du Pacifique-Canadien et par la loi de 1881, 44 Victoria, ch. 1^{er}, qui a ratifié le contrat et qui a constitué la compagnie, ainsi que la question des exemptions de taxes et des autres subventions et subsides reçus par la compagnie. Ces questions sont mentionnées dans le jugement de la Commission du 30 mars 1948 relatif à la hausse de vingt et un pour cent, 62 C.R.T.C. 1, et elles sont traitées plus en détail dans le jugement de la Commission du 15 février 1954 sur l'assiette des taux de rémunération, 70 C.R.T.C. 186. Dans le présent jugement, j'ai tenu compte du contrat de 1880, de la loi de 1881, des subventions et subsides divers reçus par le Pacifique-Canadien, des exemptions de taxes et du fait que la compagnie retire un important revenu de ses investissements non ferroviaires.

Quels que puissent être l'intention du contrat et de la loi de 1881 ou le sens du mot "efficacement" qui est employé, je ne crois pas qu'une obligation ou un devoir de continuer d'exploiter le "Dominion" ou d'exploiter un deuxième train de voyageurs transcontinental, en plus du "Canadian", dans les circonstances actuelles, découle du contrat ou de la loi ou des subventions, subsides et exemptions de taxes ou du revenu provenant d'investissements non ferroviaires. D'autre part, je ne crois pas non plus que la compagnie doive supprimer le "Dominion" ou tout autre train de voyageurs seulement parce que les recettes du train sont inférieures à ses frais variables et que le train est, de cette façon, non économique. L'exploitation efficace du chemin de fer prévue dans le contrat de 1880 n'est pas nécessairement synonyme d'exploitation rentable de chaque train et de chaque service.

On a aussi soutenu que les déficits d'exploitation que peut subir le "Dominion" devraient être supportés par les actionnaires de la compagnie ou comblés par les profits provenant des investissements non ferroviaires de la compagnie. Dans les causes de majoration générale des tarifs des marchandises, la Commission a inclus les recettes et les dépenses des services de voyageurs dans le calcul des recettes ferroviaires nettes et de l'insuffisance du revenu provenant des opérations ferroviaires ainsi que le niveau des tarifs des marchandises. La Commission a permis que les déficits des services de voyageurs soient comblés au moyen des tarifs de marchandises et des recettes provenant des services des marchandises. Bien qu'il y ait eu appel des décisions de la Commission à la Cour suprême du Canada et au gouverneur en conseil, il n'a jamais été établi que la Commission avait fondé sa décision sur un principe erroné ou s'était trompée en appliquant la loi qui était alors en vigueur et qui l'est présentement.

La question a aussi été étudiée par les commissions royales d'enquête sur les transports. Je crois qu'il convient de souligner ici que la plus récente, la Commission royale MacPherson, a recommandé que de nouveaux subsides soient prévus pour combler les déficits des trains de voyageurs du Pacifique-Canadien. Alors qu'elle était bien au courant des subventions, des subsides et des exemptions de taxes, elle n'a pas recommandé que ces déficits soient comblés par les revenus des investissements non ferroviaires de la compagnie ou de ses filiales ni qu'ils soient supportés par les actionnaires de la compagnie.

Toutefois, le fait que le contrat de 1880, les subsides, les exemptions de taxes et le revenu des investissements non ferroviaires n'entraînent pas pour le Pacifique-Canadien l'obligation ni le devoir d'exploiter un deuxième train de voyageurs transcontinental, en plus du "Canadian", ne dit pas si un tel train doit ou non être exploité.

L'avenir du train

L'article 315 de la Loi sur les chemins de fer impose aux compagnies de chemin de fer l'obligation d'assurer un service suffisant et convenable pour le transport du trafic et de transporter tout le trafic qui se présente pour transport par le chemin de fer. A mon avis, cet article n'impose pas l'obligation d'exploiter un train lorsque le nombre de voyageurs qui se présentent pour être transportés et le coût de l'exploitation du train par la compagnie sont tels que la seule conclusion logique est qu'il ne serait pas raisonnable de s'attendre qu'un tel train soit exploité. La Commission n'a jamais considéré l'obligation comme absolue. La mesure de l'obligation imposée aux compagnies de chemin de fer par un article tout à fait semblable d'une loi provinciale sur les chemins de fer a été étudiée par la Cour suprême du Canada dans la cause de Patchett, déjà citée*, relative au refus des employés d'un chemin de fer de faire circuler un train desservant une installation industrielle où il y avait une grève. Les avis des membres du tribunal étaient partagés. De l'avis de la majorité, la compagnie de chemin de fer n'avait pas, dans les circonstances, l'obligation absolue de desservir l'installation. Tout en disant clairement que la seule question en cause était l'obligation du chemin de fer à l'égard de l'industrie dans le cas particulier à l'étude, le juge Rand, a déclaré, entre autres, ce qui suit:

"Indépendamment de la loi, lorsqu'une entreprise privée établit un service de transport public à titre d'entreprise commerciale, elle suppose que, si elle-même n'est pas en faute, elle disposera des moyens normaux pour remplir ses obligations. Sous tous leurs aspects, les engagements pris par le transporteur ne l'obligent que dans une mesure raisonnable et seule est absolue sa responsabilité traditionnelle d'assureur de marchandises. Ces obligations constituent les éléments de base des dispositions générales de la loi. Cette réserve concernant des conditions raisonnables s'applique à l'un des aspects de la question qui fait l'objet de la présente plainte, soit la disponibilité des installations et du matériel; par exemple, un chemin de fer n'est pas tenu d'avoir en tout temps suffisamment de wagons pour satisfaire à la demande; ses besoins financiers sont son premier souci et jouent un rôle essentiel dans son exploitation vu qu'ils sont liés à son obligation d'assurer le transport à des prix raisonnables. Les particuliers qui ont investi du capital ont assumé les risques de l'exploitation; ils ne peuvent être tenus de se ruiner en donnant plus que n'exige leur entreprise de service public, un service raisonnable. Sauf en cas de disposition expresse ou d'obligation statutaire, ces conditions s'appliquent à toute l'activité du transporteur. Cela est le champ d'obligations dans lequel se trouve placé le transporteur qui relève de la loi."

La loi sur les chemins de fer ne prévoit ni ligne de conduite ni principe auxquels la Commission doit se soumettre en déterminant quels trains de

*(1959) S.C.R. 271

voyageurs doivent circuler. La ligne de conduite appliquée par la Commission, dans tout le Canada, a consisté à estimer du mieux qu'elle peut dans quelle mesure le public a besoin d'un service de train et à juger si le fardeau qu'imposerait au chemin de fer la continuation du service l'emporte sur les pertes et les inconvénients que son abandon causerait au public au point de justifier un tel abandon. Exactement à quel point l'abandon est-il justifié est une question qui requiert l'exercice d'un bon jugement. C'est la direction du chemin de fer qui décide en premier lieu de la situation dans chaque cas, mais la décision de la direction peut être examinée par la Commission sur demande, en cas de plainte ou de la propre initiative de la Commission. Pour en arriver à une décision, la Commission tient compte de tous les facteurs pertinents, y compris la population et la situation économique de la région en cause, la nécessité du service de train pour le public et le genre de service assuré, le degré d'utilisation du train par le public et les perspectives d'avenir à ce sujet, les autres moyens de transport disponibles, les recettes et les dépenses du service, le fardeau qu'imposerait au chemin de fer la continuation du service et les effets qu'aurait pour le chemin de fer l'abandon de ce service.

Lorsqu'il s'agit d'un train transcontinental, comme dans le cas présent, il est impossible d'évaluer en dollars les pertes et les inconvénients que la discontinuation du service causerait au public, car le public en cause est évidemment beaucoup plus nombreux que dans le cas d'un train qui dessert une région limitée. Même dans le cas de trains locaux, il est difficile d'évaluer en argent les pertes et les inconvénients. Une décision sur la nécessité d'un service dans l'intérêt public ou pour la commodité du public est avant tout l'énoncé d'une opinion résultant de l'étude des faits et de l'évaluation des données économiques, financières, sociales, opérationnelles et autres et d'un regard sur l'avenir. J'emploie le mot "nécessité" au sens large et non au sens absolu. En ce qui concerne le "Dominion", le besoin du public et l'intérêt public doivent être considérés dans une vaste perspective. Il faut tenir compte non seulement des besoins de ceux pour qui il est commode ou nécessaire de voyager par ce train mais aussi des effets de l'exploitation du train pour la compagnie.

En 1951, la Commission Turgeon a proposé que les chemins de fer soient autorisés à réaliser des économies dans le cas d'exploitations qui, de toute évidence, ne sont plus essentiellement nécessaires ou ne sont pas rentables, spécialement lorsqu'il est établi que d'autres agences peuvent assurer un service raisonnable.

Cette proposition a été suivie de celle de la Commission royale d'enquête sur les perspectives économiques du Canada qui a recommandé que la Commission des transports du Canada applique fermement la ligne de conduite proposée par la Commission Turgeon et visant à permettre l'abandon d'un plus grand nombre de services non rentables; la Commission déclarait qu'étant donné l'accroissement des services d'autobus et de camions, l'abandon de services

ferroviaires pouvait, dans bien des cas, se faire à peu près ou entièrement sans tort causé au public, ni du point de vue de la commodité ni de celui du coût, si l'on tient compte particulièrement du fait que de plus en plus les routes sont ouvertes et passables durant tout l'hiver et, comme corollaire, que les chemins de fer ne devraient pas être forcés d'établir de nouveaux services qui ne peuvent être justifiés du point de vue économique.

J'ai mentionné les conclusions et les recommandations de la Commission royale MacPherson.

Les conclusions et les recommandations des commissions royales ont un poids considérable et, bien qu'elles ne lient pas la Commission et que certaines recommandations n'aient pas encore fait l'objet de mesures législatives, je leur ai donné toute l'attention qu'elles méritent.

On s'attend à une nouvelle législation ferroviaire en ce qui concerne les services de voyageurs des chemins de fer et on a prié instamment la Commission de différer sa décision en attendant cette législation. La Commission est tenue d'exercer sa compétence en vertu de la loi existante. Je crois qu'un redressement est justifié et qu'un redressement approprié devrait être accordé.

Le "Dominion", dans sa composition actuelle, soit deux voitures ordinaires et un wagon de choc sur la plus grande partie de son parcours, est loin d'être ce que devrait être un véritable service transcontinental. C'est un train de nuit dans beaucoup d'agglomérations et, pour cette raison, entre autres, il n'est pas adapté aux voyages locaux ou de petite distance. Il n'a pas beaucoup de voyageurs. Ses frais excéderont de beaucoup ses recettes chaque année, en ne tenant compte que des frais évitables minimums de son exploitation réduite actuelle.

Le détail des éléments des dépenses de l'année 1964, alors que le train avait du trafic à l'avant, et de l'année fictive 1965-1966, pour le train avec sa composition actuelle, a été donné dans les pièces 4 et 5. Toutes les catégories de dépenses sont moins élevées pour l'année fictive, les frais variables totaux étant réduits de 20.8 millions de dollars à 7.7 millions de dollars. Ces frais variables constituent les éléments des dépenses qui varient suivant l'importance de l'exploitation du train. Seront moins élevés les salaires du personnel si le nombre des trains-milles est moindre, les frais de combustible si les charges sont moins lourdes, les frais de rotonde si les unités diesel parcourent moins de milles et les réparations des voitures si le nombre de voitures-milles est moindre. Tous ces éléments des frais variables sont moins élevés lorsqu'il y a réduction des unités de service et de la composition du train. La compagnie prévoyait dans ses estimations un déficit de 9.7 millions de dollars pour l'année 1964 en regard d'un déficit de 4.9 millions pour l'année fictive d'exploitation du train dans sa composition actuelle.

En ce qui concerne les recettes et les frais donnés dans la pièce 5 pour l'exploitation du train dans sa composition actuelle pendant une période de

12 mois, je n'inclurais pas à titre de dépense évitable les \$628,100 réclamés par la compagnie à titre de coût de l'argent. Je rejetterais également, pour les fins du présent jugement, d'autres éléments, y compris l'entretien de la voie, les frais de trafic et les frais divers. Le personnel de la Commission a fait l'étude et l'examen de l'exploitation du train actuel et des dépenses indiquées par la compagnie. Il a fait cette étude afin de déterminer le montant des dépenses évitables, sur une base aussi réduite que possible et à l'exclusion du prix de l'argent, si le train était supprimé. J'estime avec lui que les dépenses évitables, d'après cette base, seraient d'environ 6 millions de dollars et le déficit d'environ 3 millions de dollars. Compte tenu de l'importance du déficit annuel qui résulterait de la continuation de l'exploitation du train, du nombre de voyageurs transportés par le train au cours des dernières années et de la nature et des défauts de son exploitation actuelle, je n'ai pas jugé nécessaire que le personnel de la Commission ou moi-même fassions l'étude détaillée supplémentaire qui s'imposerait pour une détermination plus précise des éléments et du total des dépenses admissibles, des recettes et du déficit.

A mon avis, aucune raison suffisante ne justifie la continuation de l'exploitation du "Dominion" dans sa composition actuelle, ni comme train à wagons-lits, l'année durant.

J'ai déjà indiqué qu'il n'existe pas de bonnes raisons pour rétablir le service de trafic à l'avant sur ce train et pour l'exploiter dans sa composition d'avant juin 1965 ou d'avant 1960.

Reste la question de l'exploitation d'été, soit pendant les deux mois et demi ou à peu près qui constituent la principale saison des voyages de vacances au Canada. C'est la période qui commence vers l'époque à laquelle les étudiants finissent leur année d'études en juin et qui se termine un peu après la fête du Travail, en septembre.

Les chiffres présentés par la compagnie dans la pièce 4 montrent que les recettes-voyageurs du "Dominion" se sont élevées à \$477,273 en juin 1964, à \$1,313,613 en juillet, à \$1,261,181 en août et à \$355,260 en septembre; et pour 1965, à \$368,261 en juin et à \$1,376,268 en juillet.

J'ai mentionné les dépositions concernant les voyageurs transportés sur le "Dominion" en juillet 1965, à partir de Vancouver et à partir de Winnipeg à un moment où le "Canadian" était utilisé presque à capacité et que l'espace réservé était vendu bien à l'avance et où il était difficile d'obtenir des réservations. Le Pacifique-Canadien a dit que le trafic d'été du "Dominion" consistait en grande partie en trafic touristique venant des États-Unis, qu'il avait sollicité ce trafic de façon agressive au cours des années passées mais qu'il ne le solliciterait pas à l'avenir. Cependant, il se fait une grande publicité par laquelle on invite les touristes à visiter le Canada. C'est un trafic que le Canada recherche et qui est profitable à son économie. L'année prochaine sera l'année

du Centenaire qui verra la tenue de l'Exposition universelle à Montréal et d'autres attractions ailleurs. Des touristes voudront venir. Le nombre des voyages accomplis au Canada par les Canadiens devrait également augmenter chaque année dans un avenir prévisible à mesure que la population augmente. Les voyages par avion à travers le Canada deviennent plus à la portée du public et les installations pour ce genre de voyages augmentent; nombre de personnes voyagent par autobus; et il y a l'automobile privée. Cependant, beaucoup ne peuvent ou ne veulent pas voyager par avion, autobus ou automobile privée et préfèrent voyager par chemin de fer, particulièrement pour les grandes distances qu'on rencontre au Canada.

Le Pacifique-Canadien a dit, dans ses dépositions aux audiences qu'il sera nécessaire de faire de grosses réparations en 1966 à 74 voitures Tuscan Red, si le "Dominion" doit avoir une composition de 17 voitures durant l'été, soit une composition semblable à celle de l'été de 1965, et que le coût de la mise en état d'exploitation de ces 74 voitures s'élèvera à \$1,385,000. La compagnie a déterminé que les voitures nécessaires à la composition d'un train de 17 voitures comprennent 137 voitures de divers types et 13 voitures de réserve. Elle a dit qu'en plus de ces dépenses et du coût de l'exploitation du train, il y aurait les réparations courantes au montant de \$789,000, de sorte que le coût total des réparations des voitures pour 1966 serait de \$2,174,000, sans comprendre certains petits éléments de dépense, et qu'au cours des années subséquentes les 66 voitures Tuscan Red qui restent auraient besoin de grosses réparations, de même que les 5 voitures Park et les 5 voitures ordinaires Skyline. Il a été déclaré que de grosses réparations sont nécessaires à intervalles d'environ cinq ans, qu'entre les grosses réparations, de légères réparations sont effectuées après trois ans et que le coût des réparations légères varie de \$5,000 pour un fourgon à bagages à \$7,500 pour un wagon-restaurant.

Je ne conteste pas le fait que les voitures de type plus ancien utilisées par le "Dominion" devront être réparées et utilisées de nouveau si le train répète son exploitation de l'été de 1965 et que ces réparations entraîneront des dépenses considérables.

Cependant, le Pacifique-Canadien n'a pas fait, aux audiences, de dépositions sur les recettes et les dépenses à prévoir si le "Dominion" était exploité pendant les étés de 1966 et de 1967 de la façon dont il l'a été pendant l'été de 1965. Par conséquent, la Commission a demandé la présentation de ces chiffres et a discuté un peu cette question avec M. Nepveu. Dans une lettre datée du 24 décembre 1965, le Pacifique-Canadien a déclaré, entre autres choses, ce qui suit:

1. "A supposer que le "Dominion" continue à être exploité en 1966 et en 1967 comme il l'est actuellement, sauf pendant la période d'été allant de la dernière semaine de juin au lendemain de la fête du Travail

alors qu'il aurait une composition complète comparable à celle de l'été de 1965.

	<u>1966</u>	<u>1967</u>
Recettes	\$ 5,009,000	\$ 5,009,000
Frais variables	<u>12,962,000</u>	<u>12,544,000</u>
Excédent des frais variables sur les recettes	<u>7,953,000</u>	<u>7,535,000</u>

Les recettes sont fondées sur la projection comprise dans la pièce 5 pour les mois autres que les mois d'été et sur le même volume de trafic qu'en 1965 pour la période d'été. Les frais variables comprennent le coût des réparations à l'atelier de 73 voitures en 1966 et de 53 voitures en 1967. L'amortissement et le coût de l'argent relatifs aux unités diesel supplémentaires nécessaires à l'exploitation d'été sont compris dans les frais variables et calculés sur une base proportionnelle pour la période pendant laquelle ces unités seraient utilisées sur le "Dominion" seulement. Le coût de la main-d'œuvre et des matériaux compris dans les frais variables a été calculé aux prix courants de la main-d'œuvre et des matériaux. Aucune provision n'a été faite pour une augmentation possible des prix en 1966 ou en 1967.

2. A supposer que le "Dominion" cesse, à la fin de 1965, d'être exploité comme il l'est actuellement et qu'en 1966 et en 1967 il soit exploité de la dernière semaine de juin jusqu'au lendemain de la fête du Travail seulement, avec une composition complète comparable à celle de l'été de 1965.

	<u>1966</u>	<u>1967</u>
Recettes	\$2,970,000	\$2,970,000
Frais variables	<u>7,744,000</u>	<u>7,337,000</u>
Excédent des frais variables sur les recettes	<u>\$4,774,000</u>	<u>\$4,367,000</u>

Les remarques faites au paragraphe 1 s'appliquent aussi aux recettes et aux frais variables donnés ci-dessus."

La compagnie affirme aussi dans sa lettre qu'à sa connaissance, ni au Canada ni aux États-Unis, il ne se construit de wagons à voyageurs autres que les voitures spéciales qui sont à l'étude relativement au United States Federal Northeast Corridor Project et que les constructeurs de wagons n'ont pas construit de wagons à voyageurs depuis assez longtemps. La compagnie a également

fourni des chiffres sur le nombre de trains-milles, d'unités diesel-milles, de tonnes-milles brutes pour les exploitations décrites ci-dessus.

Le montant du déficit annuel résultant d'une exploitation d'été seulement dépendra de l'allocation de coût des grosses réparations. Si le train est exploité pendant les seuls étés de 1966 et de 1967 et qu'il n'est pas exploité par la suite, le coût des réparations nécessaires pour l'exploitation pendant 1966 et 1967 devra être imputé entièrement sur ces deux années dans la détermination du déficit; mais, si le train est exploité pendant plus de deux étés, le coût des réparations serait réparti sur une période de plus de deux ans.

Selon une estimation préliminaire faite par le personnel de la Commission, il y a raisonnablement lieu de s'attendre à un déficit de plus de 3 millions de dollars chaque année si le train est exploité pendant les étés de 1966 et de 1967 (dans sa composition de l'été de 1965) et si le coût desdites grosses réparations faites en préparation de cette exploitation ne sont réparties que sur ces deux années. Je n'ai aucun doute que l'exploitation du "Dominion" pendant l'été seulement au cours des prochaines années entraînerait des déficits s'élevant à des millions de dollars et que ces déficits seraient encore plus élevés si le train était exploité pendant le reste de l'année en plus de l'être durant l'été.

Cependant, à l'encontre des déficits en perspective, il faut tenir compte de la nécessité réelle de ce service, compte tenu des autres moyens de transport.

Les commissaires qui ont entendu la cause sont convenus qu'il nous faut en faire une étude plus approfondie et obtenir des renseignements supplémentaires avant de pouvoir décider si le train devrait être exploité en été. La décision à ce sujet sera par conséquent réservée en attendant une étude plus approfondie. La décision immédiate est que l'exploitation du "Dominion" actuel pourra être discontinuée en aucun temps à partir de maintenant, à condition que la compagnie, concurremment avec cette discontinuation rétablisse le service qu'assuraient les trains 232 et 235 entre Montréal et Ottawa avant le 7 septembre 1965. Le train 232 a été combiné avec le train 4 le 7 septembre et le train 235 avec le train 3 le 31 octobre 1965. La Commission a rendu son ordonnance relative au "Dominion" le 1^{er} septembre 1965. A notre avis, le public qui utilisait les trains 232 et 235, exploités en plus du "Dominion", n'avait pas lieu de croire que l'avenir du service assuré par ces trains locaux était en cause aux audiences tenues au sujet du "Dominion". Si la compagnie désire plus tard supprimer ces trains, elle pourra procéder de la façon habituelle par voie d'avis et sur réception de cet avis la Commission décidera quelles sont les mesures qu'il y a lieu de prendre.

Eu égard en particulier à la situation de la région quant aux routes et à sa dépendance du service ferroviaire, la Commission cherchera à obtenir plus de renseignements pour savoir si le service actuel de 3 jours par semaine des trains

417 et 418 entre Sudbury et White River sera suffisant après la suppression du "Dominion" ou s'il devrait y avoir un service de six jours.

Il sera rendu une ordonnance permettant au Pacifique-Canadien de supprimer le "Dominion" conformément à la présente décision.

Le Commissaire en chef,

ROD. KERR

Ottawa, le 7 janvier 1966.

J'agréé:

Le Commissaire,

J.M. WOODARD

GRIFFIN, commissaire en chef adjoint:

D'autres travaux de la Commission m'ayant retenu, je n'ai pu participer qu'aux audiences de la Commission qui ont été tenues à Winnipeg, à Vancouver, à Calgary et à Regina, c'est-à-dire aux audiences de l'Ouest. Il ne m'a pas été possible de participer aux audiences d'Ottawa et de Port Arthur.

Je me rallie au jugement de M. le commissaire en chef et de M. le commissaire Woodard relativement au service assuré par le "Dominion" à l'ouest de Winnipeg.

Je ne puis me prononcer sur la preuve relative au service de Winnipeg à Sudbury et de Sudbury à Montréal et Toronto. Toutefois, je constate que le "Dominion" a cessé depuis quelque temps (sauf pendant les mois d'été) d'être un service transcontinental et est devenu une série de services régionaux.

En outre, j'ai devant moi des dépositions sur lesquelles je puis honnêtement me fonder pour me prononcer sur la question qui reste devant la Commission, c'est-à-dire si le "Dominion" devrait être exploité en été. Je me propose de me rallier à la décision de la Commission.

En me ralliant au jugement de M. le juge en chef et de M. le commissaire Woodard, je dois faire cette réserve qu'en exprimant mon opinion, je n'ai pas calculé les répercussions économiques et sociales que la mesure entraînera pour les agglomérations. A mon avis, la Commission n'a pas à tenir compte de ces répercussions ni à en mesurer les effets dans l'accomplissement de ses fonctions en vertu de la Loi sur les chemins de fer.

Le Commissaire en chef adjoint,

H.H. GRIFFIN

ORDONNANCE N° 119542

VENDREDI 7 JANVIER 1966

ROD. KERR, C.R.

commissaire en chef

H.H. GRIFFIN,

commissaire en chef adjoint

J.M. WOODARD,

commissaire

*RELATIVE aux trains nos 3, 4,
13 et 14 de la Compagnie de chemin
de fer du Pacifique-Canadien, connus
sous le nom de "Dominion", et aux
questions connexes.*

Dossier n° 27563.479

APRÈS audition de la requête à des séances de la Commission tenues à Winnipeg, à Vancouver, à Calgary, à Regina, à Port Arthur et à Ottawa, en présence des avocats de la Compagnie de chemin de fer du Pacifique-Canadien et des avocats et représentants des autres parties, et après étude des pièces déposées et des dépositions, et en vertu du jugement ci-annexé daté du 7 janvier 1966—

IL EST PAR LES PRÉSENTES ORDONNÉ que la Compagnie de chemin de fer du Pacifique-Canadien soit autorisée à discontinuer l'exploitation du "Dominion" en tout temps à partir de maintenant conformément audit jugement.

Le Commissaire en chef,

ROD. KERR

Can. The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF Canadian Pacific Railway Company's application for an Order to abandon part of its Rossland Subdivision between Warfield and Rossland, in the Province of British Columbia, a distance of 7.5 miles.

File No. 39309.64

January 20, 1966

BEFORE:

H.H. GRIFFIN,
W.R. IRWIN,
A.S. KIRK,

*Assistant Chief Commissioner.
Commissioner.
Commissioner.*

APPEARANCES:

K.D.M. SPENCE, Q.C.,

*for the Canadian Pacific Railway
Company.*

HAROLD ELMES,
H.W. LEFEVRE,

*Mayor, City of Rossland.
President, Rossland Chamber of
Commerce.*

T.A. McRAE,

*Chairman, Transportation Committee,
Rossland Chamber of Commerce.*

Heard at Rossland, B.C., November 17, 1965.

JUDGMENT

IRWIN, C.

The line between Trail and Rossland, 7.5 miles of which is the subject of this application, was constructed in 1895 and 1896 as a narrow gauge line. In 1899 it was changed to standard gauge and incorporated in the Columbia and Western Railroad running north to Castlegar. The latter railroad had been purchased by the Canadian Pacific Railway in 1897.

Evidence concerning the physical characteristics of the line proposed for abandonment was given by Mr. Grassie, Superintendent of the Canadian Pacific Railway at Nelson, and is supported by Exhibit 2 filed by Railway Counsel. The

portion proposed for abandonment is between Warfield and Rossland, a distance of 7.5 miles. The rail in the line is mostly 85 pound steel with a small percentage being 100 pound. The grade reaches a maximum of 4.5 percent and from Tadanac to Rossland is practically constant at that percentage. There are no bridges on the line, only a timber pedestrian overpass. In general, the line has been maintained to a degree that ensures safe operation.

There is no passenger service on the line; no express, and no l.c.l. freight. Only carload freight comes into, or out of, Rossland and for the past three years this service from Tadanac to Rossland has been on an as-required basis. Mr. Grassie stated that the frequency of the trains is not constant and ranges from two a month to eight a month. There are no shipping points on the line between Warfield and Rossland. The line itself follows a winding course, leaving Warfield in a southerly direction and after passing through a switchback, finally enters Rossland city limits from the south, at a point called Union Avenue.

The greatest maintenance and operational difficulties on the line arise from a very heavy snowfall in the area; 150 to 170 inches per year. In winter, after a snowfall, a snow plow must come in from Nelson to clear the track in order to place a car or cars, and after they have been unloaded, frequently the plow has to come in again to get them out. The area at the switchback at a point called Tiger is particularly difficult, in that the engine with the snow plow must back up over uncleared track and at times, when the ice and snow are very bad, the clearing must be done by maintenance-of-way forces, in order to avoid derailments and make it safe for a reverse movement.

Mr. Grassie stated that cars could be unloaded at Warfield from a team track and the shipments could be trucked into Rossland. He estimated the distance to be about three miles by highway. A later measurement by car speedometer confirmed the distance from Warfield to about the city centre to be approximately 3.3 miles. Mr. Grassie also pointed out that if Warfield were made the terminus of the line, a yard engine from Tadanac could be used to deliver a car or cars to the team track at Warfield which would be within the yard limits and it would no longer be necessary to run a train from Nelson in order to deliver a car for Rossland.

The highway from the proposed Warfield team track to Rossland is a paved, three lane, highway in good condition and is kept clear in winter. Mr. Grassie and Mr. Nesbitt, Terminal Manager of Canadian Pacific Merchandise Services at Trail, gave evidence concerning four available highway transportation services:

1. Canadian Pacific Merchandise Services' license permits them to pick up general freight originating outside a 20-mile limit centering at Trail and deliver it within the 20-mile area.
2. Miller and Brown have a similar license for highway transportation.

3. Davies Transfer provides pick up and delivery service and has the franchise to haul general freight between Rossland and Trail.
4. Public Freightways operates from Kinnaird to Rossland on an as-required basis.

Special permits may be obtained for carrying loads not included in the terms or conditions of the license. Petroleum and asphalt in bulk requires special equipment, which none of the above four companies own.

Mr. R.M. Leslie, Senior Research Analyst with the Department of Research, Canadian Pacific Railway, in Montreal, testified as to the traffic to and from Rossland, the only point on the line receiving or forwarding traffic. Counsel for the railway filed Exhibit 3 to show the traffic received at and forwarded from Rossland in the years 1961 to 1964 inclusive, and Exhibit 4 showing the traffic received at and forwarded from Rossland from January to September inclusive in 1965.

The total inward traffic for the years shown was:

1961 (111 cars)

1962 (87 cars)

1963 (61 cars)

1964 (61 cars)

(9 months) 1965 (44 cars) and if projected to a full year (60 cars).

The outward movement for the years 1961 to 1965 (nine months) inclusive, was 0, 6, 4, 7, 0 cars. This outward traffic, with the exception of scrap metal, consisted largely of contractors' equipment and construction machinery; traffic not likely to recur. It is significant that there was no traffic in the nine months of 1965. Much of the incoming traffic, notably asphalt and machinery, was due to the construction of a new highway from Rossland to Sheep Lake and to the construction of a ski lift, which has now been completed.

The basic commodities such as coal, flour and feeds furnished most of the recurring traffic. Coal showed a decline from 81 cars in 1961 to 28 in the last full year 1964, due in a large measure to the installation of natural gas. Feed and flour also showed a decline, but at a much slower rate. The highest number of incoming cars in any one year (111), shows an average of about two cars per week. This average has shrunk to slightly over one car per week.

Mr. B.W. Chapman, District Manager of Freight Traffic of the Canadian Pacific Railway in Nelson, was questioned as to the possibilities of new traffic for the line from the area. The only possibility to which his attention had been drawn was the future possible shipment of molybdenite concentrate from the recently developed Red Mountain mine property. Mr. Chapman stated that the mine officials expected to ship two tons of the concentrate per day. This would

be shipped in metal drums to a destination as yet not decided. He had made no other traffic surveys in the area and knew of none.

Mr. James Cherrington, District Regional Engineer, Canadian Pacific, Vancouver, testified as to the details of Exhibit 10, filed by railway Counsel. This was the statement of the net salvage values of trackage and facilities on the portion of the line between Warfield and Rossland and showed the net salvage value to be approximately \$82,700. Mr. Cherrington also dealt with Exhibit 11 filed by railway Counsel. He confirmed the figures showing the forecast of capital appropriations that would be required for this portion of the line during the next 15 years if it were kept in operation. This totalled \$18,500.

Financial Position of the Railway Relative to the Operation of the Line between Warfield and Rossland.

Evidence concerning revenues and expenses relative to the above operation was given by Mr. Leslie and supported by Exhibits 5 to 9 inclusive, filed by railway Counsel.

The 7.5 miles of rail line between Warfield and Rossland has been credited with the total System freight revenues earned by all traffic terminating at Rossland, including the freight charges over Canadian Pacific lines for shipments such as culverts from New Westminster, feed from Medicine Hat and coal from East Coulee. There was also some revenue from outbound traffic and a small amount of revenue from leases, sidings and miscellaneous agreements. The total revenues credited to the line over a four-year period varied from a high of \$32,900 in 1962 to a low of \$24,900 in 1963. The average annual revenue for the four years 1961 to 1964 was \$27,750. The total in 1964 was \$27,400 which I consider reasonably representative of an average year and acceptable for the purposes of this Judgment.

The cost to the railway of earning the 1964 revenue includes all the costs of operating the 7.5 miles of line between Warfield and Rossland since no other traffic moved over this line. It also includes a share of the costs of operating over other parts of the System along the route of the inbound and outbound Rossland traffic. These latter costs are known as off-line variable costs and are allocated to the branch line traffic on the basis of service units such as car miles, car days and yard switching minutes. In 1964 the total off-line cost allocated to the \$27,400 worth of Rossland traffic was \$9400, which left a balance of \$18,000 of revenue to cover costs on the branch line between Warfield and Rossland, and overhead allowances, the amounts of which are shown in Exhibit No. 9 reproduced below:

**Statement of 1961, 1962, 1963 and 1964 System Revenue for that Portion of
the Rossland Subdivision between Warfield and Rossland and 1963 and
1964 Financial Improvement Resulting from Abandonment**

	<u>1961</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>
System Revenue	\$25,800	\$32,900	\$24,900	\$27,400
Saveable Expenses				
Directly Accountable Costs		\$27,500		\$26,700
Allocated Costs – On-Line		800		800
– Off-Line		8,500		9,400
Overhead Allowances		<u>6,200</u>	<u>43,000</u>	<u>6,200</u> <u>43,100</u>
Operating Loss			\$18,100	\$15,700
Cost of Money on Net Salvage				
Value of Trackage and Facilities			\$ 9,400	\$ 9,400
Financial Improvement			<u>\$27,500</u>	<u>\$25,100</u>

The overhead allowances for 1964 totalled \$6239, rounded to \$6200 in Exhibit No. 9. This total was made up of \$1560 for Superintendence; \$769 for Traffic; \$2684 for General; \$553 for Communications; \$323 for Other; \$88 for Insurance; and \$262 for Non-Revenue Freight. In previous cases of this nature, the Board has accepted, for judgment purposes, that part of the overhead allowances which it was clear would be saved in the event of abandonment, but has made disallowances for other items which the Company had not shown would be saved, except possibly over an indefinite period of time.

In this case the overhead allowances are not a determining factor since the remaining revenue, after deducting off-line expenses, i.e. \$18,000, falls far short of meeting the directly accountable on-line costs. These on-line costs which would be saved in the event of abandonment total \$27,500, leaving a short fall of \$9500 without considering overhead allowances. This is some \$1260 per mile per annum, and if I made a partial allowance for overhead, the annual operating loss would exceed \$1500 per mile per annum.

In addition to elimination of the annual operating loss there would be a further benefit from abandonment due to the fact that trackage and facilities which now represent a sunk investment could be salvaged. I have calculated the interest on such salvage at 5 percent in lieu of 11.4 percent, which was the cost of money used by the Company. The annual interest at 5 percent on the net salvage would be about \$550 per mile of track.

For purposes of this Judgment I will consider the annual saving in operating loss to be \$1500 per mile in the event of abandonment. The financial improvement would be some \$2000 per mile, or about \$15,000 per annum for 7.5 miles of line.

These are the amounts which must be weighed against the loss and inconvenience to the public if the rail delivery point for carload freight were changed to Warfield in lieu of Rossland.

In his evidence on Exhibit 9, Mr. Leslie pointed out that the figure of \$25,100 financial improvement to the railway in the event of abandonment (as shown in Exhibit 9), is subject to the assumption that all of the traffic destined for Rossland will be lost to the railway. Any of this traffic that might be retained would, therefore, result in an increase in the financial improvement to the railway as a result of abandonment.

Opposition to the Application

While no witnesses were called by those opposing the application of the railway, Mayor Elmes of Rossland; Mr. H.W. Lefevre, President of the Rossland Chamber of Commerce, and Mr. T.A. McRae, Chairman of the Transportation Committee of the Rossland Chamber of Commerce, appeared throughout the hearing. All three cross-examined the railway witnesses. Mr. Lefevre presented a brief on behalf of his organization and Mayor Elmes and Mr. McRae both presented final argument. These representatives opposed the application of the railway on grounds which can be summarized thus:

1. They considered it unnecessary economically to abandon all the trackage between Warfield and Rossland.
2. Completion of the new Sheep Lake highway into Rossland has opened up a new area to be served.
3. The opening of the Red Mountain mine will result in increasing shipments of molybdenite concentrate.
4. Freight rates to Warfield are the same as those to Rossland. Costs of trucking will be added to unchanged freight costs. The trucking cost of coal from Trail to Rossland varies upward from \$3.00 per ton.

Mayor Elmes, Mr. Lefevre and Mr. McRae put forward alternate proposals:

1. The portion of the line to be abandoned should be only that which lies within Rossland city limits.
2. The railway should retain the rails as far as Union Avenue and establish a track warehouse at this point.
3. The Tadanac yard limits should be extended as far as Union Avenue, in order to permit yard engines to move cars into and out of Rossland.

In cross-examination of Mr. Lefevre on the proposals included in the Chamber of Commerce brief, Counsel for the railway pointed out that the trucking costs from Warfield to Rossland would be less than the quoted cost from Trail to Rossland. Mr. Lefevre agreed that the distance from Union Avenue to the main street

of Rossland would be almost a mile up a very steep grade. Counsel also pointed out that a wye would have to be constructed at Union Avenue in order to turn the snow plows.

In his final submission, Counsel for the railway argued that the following facts had been developed in evidence:

1. The rail service in question is very little used.
2. The line is very difficult and expensive to maintain, particularly in wintertime.
3. A considerable operating loss could be avoided and a larger financial improvement realized if the line were terminated at Warfield.
4. There would be little or no inconvenience to the population of Rossland if this portion of the line were abandoned.
5. The Union Avenue termination would result in very little saving to the railway, particularly if a wye and an on-track warehouse had to be built and in even greater inconvenience to the consignees at Rossland than would result from hauling over the highway from Warfield. Counsel contended that the steep climb from Union Avenue over inferior roads would be more difficult than the 12 percent grade on the excellent highway.

Findings and Determinations

The railway between Trail and Rossland has been in operation for some 70 years. The abandonment of all track beyond Warfield would end direct railway service to Rossland. Such change would inevitably involve a degree of readjustment and consequent inconvenience.

Earlier in this Judgment, the analysis of the financial position of the railway indicated an operating loss for this portion of the line of \$1500 per mile annually and a minimum financial improvement to the railway of \$2000 annually per mile, as a result of abandonment.

A study of Exhibit 3 reveals a steady decline in traffic since 1961 and suggests that much of the traffic was connected with road and special construction which is now completed. No likelihood of recurrence of such traffic is indicated. The railway has apparently made no special survey of potential new traffic in the area. On the other hand, no evidence was presented to indicate possibilities of any increase in traffic. The completion of the Sheep Lake highway might well result in a loss of traffic to the railway line into Rossland rather than a gain. The Red Mountain mine officials did not appear at the hearing and thus showed no apparent concern over the application for abandonment. This is understandable in view of their stated intention of shipping their product in 50 pound drums or containers, which suggests adaptability for truck handling.

I am satisfied that the railway is operating at a loss; that continued operation of the line would involve the capital expenditures shown in Exhibit 11, amounting to \$18,500 within the next 15 years, and finally; that there is no evidence to indicate an increase in the traffic offering.

The principles followed by the Board in considering applications for abandonment have been as stated by Chief Commissioner Guthrie in Vancouver, Victoria and Eastern Railway v. Princeton 45 C.R.C. 197.... "But this Board has uniformly decided that loss sustained by the railway company, arising from the operation of a line of railway, is not of itself sufficient to justify the abandonment of the line. It must also be shown that the community resident in the territory affected and the industries established therein, will not be unduly inconvenienced or prejudiced by such action on the part of the railway company. In other words it must be demonstrated that the local community will not be unreasonably deprived of access to their properties and to markets and to shipping facilities for their produce either by railway, highway or other means of transport. The issue in each case where abandonment is sought resolves itself into a question of 'whether the loss and inconvenience to the public, consequent upon the abandonment, outweigh the burden that continued operation of the railway line involved would impose upon the railway company' (C.N.R. v. Tweed (1935) 44 C.R.C. 53.)"

It remains to consider the effects of the proposed abandonment on the people of Rossland. Trucking costs from Warfield to Rossland will be added to the present cost of transportation. Coal prices will very probably increase, although not to the suggested degree of \$3.00 per ton, which was the cost of truck transportation from Trail to Rossland. Some trucking cost obtains under present conditions; it will increase.

The alternate proposal to abandon the tracks only within the City limits of Rossland and to establish a terminus at Union Avenue must be weighed as to the degree to which it might affect the loss or inconvenience to the railway and to the shippers. Counsel for the railway stated that little benefit would accrue to the railway, that the building of a wye track and a track warehouse would absorb any gain. Most of the problems of maintenance and of operation would remain. I find that the alternate proposal would be of little relief to the railway.

Union Avenue is approximately one mile from the centre of Rossland, Warfield about 3.3 miles. Truck hauling would be necessary in both cases, with a difference in distance of 2.3 miles. The highway from Warfield to Rossland is an excellent highway with an average 12 percent grade. The road from Union Avenue is greatly inferior and has a very steep grade. Some shippers near the Union Avenue terminus would have lower truck charges; in other parts of the City the Warfield terminus would be more favourable. It is impossible to weigh the total effect with any appreciable degree of exactitude, but I do not find that the benefit to shippers generally would be very great if the rail terminated at Union Avenue rather than Warfield.

The loss to the railway can be measured with some accuracy; the loss and inconvenience to the shippers of Rossland can only be estimated. However, I find that the local community will not be deprived of suitable shipping facilities and that the loss to the railway outweighs the loss and inconvenience to the public that would result from abandonment. Therefore, I would authorize the Canadian Pacific Railway to abandon operation of part of its Rossland Subdivision between Warfield and Rossland in the Province of British Columbia, a distance of 7.5 miles, such abandonment to take place not prior to March 15, 1966, on not less than 30 days' prior notice filed with the Board and published in newspapers which are circulated in the area.

An Order will be issued accordingly.

(SGD) W.R. IRWIN

I Concur:

(SGD) H.H. GRIFFIN

I Concur:

(SGD) A.S. KIRK

OTTAWA, January 20, 1966.

ORDER NO. 119677

THURSDAY, THE 20TH DAY OF
JANUARY, A.D. 1966.

H.H. GRIFFIN,
Asst. Chief Commissioner.
W.R. IRWIN,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company for an Order authorizing the abandonment of part of its Rossland Subdivision between Warfield and Rossland, in the Province of British Columbia, a distance of 7.5 miles:

File No. 39309.64

UPON hearing the application at a sittings of the Board held at Rossland, British Columbia, on November 17, 1965, in the presence of Counsel for the Canadian Pacific Railway Company; Mr. Harold Elmes, Mayor of the City of Rossland; Mr. H.W. Lefevre, President, Rossland Chamber of Commerce and Mr. T.A. McRae, Chairman, Transportation Committee, Rossland Chamber of Commerce, and upon reading the submissions filed —

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Canadian Pacific Railway Company is authorized to abandon operation of part of its Rossland Subdivision between Warfield and Rossland, in the Province of British Columbia, a distance of 7.5 miles.
2. The said abandonment shall take effect not prior to March 15, 1966, on not less than thirty days' prior notice filed with the Board and published in newspapers which are circulated in the area.
3. The Canadian Pacific Railway Company shall, within ten days from the date on which abandonment has taken place, advise the Board of the date on which such abandonment actually took place.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

can. The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 119608

FRIDAY, THE 14TH DAY OF
JANUARY, A.D. 1966.

ROD. KERR, Q.C.,

Chief Commissioner.

H.H. GRIFFIN,

Asst. Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

J.M. WOODARD,

Commissioner.

W.R. IRWIN,

Commissioner.

A.S. KIRK,

Commissioner.

*IN THE MATTER OF passenger
train service between Montreal and
Toronto and Ottawa and Toronto:*

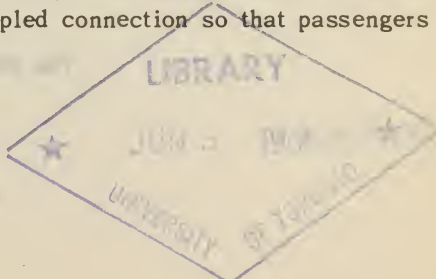
Files Nos. 27563.57

27563.283

The passenger pool train service between Montreal-Toronto and Ottawa-Toronto was discontinued by action of the Railways on October 30, 1965. With the termination of the passenger pool services, each railway pursued an independent course. Canadian National Railways scheduled morning, afternoon and overnight passenger train service between Toronto and Montreal. Canadian Pacific Railway Company scheduled afternoon passenger service between Toronto and Montreal and morning and afternoon service between Ottawa and Toronto. The afternoon service from Ottawa to Toronto was provided through a connection with Canadian Pacific Montreal-Toronto trains at Smiths Falls. The operation of the equipment between Ottawa and Smiths Falls was extended to Brockville.

The Board received numerous complaints concerning the new services summarized below:—

The platform connection at Smiths Falls for passengers to and from Ottawa was not satisfactory, as people had difficulty with baggage and the request was made that the connection be a coupled connection so that passengers would not have to change cars;



The lack of overnight passenger train service between Ottawa and Toronto;
The lack of connections at Brockville for passengers at points east and west thereof proceeding to and from Ottawa.

As a result of conferences between the Board and the Railways, proposals to meet the various complaints were submitted by Canadian National and by Canadian Pacific.

After full review, and having regard to the circumstances, the Board agrees with the opinion of the two railways that passenger train service between Montreal and Toronto and Ottawa and Toronto can be most effectively provided by a single railway, in the interests of the patrons of such service as well as from an economic standpoint.

The Canadian National proposal was to provide morning, afternoon and overnight services between Ottawa and Toronto on the understanding that Canadian Pacific would withdraw from the Ottawa-Toronto and Montreal-Toronto service. Canadian Pacific has agreed to accept this proposal.

The Board wishes to acknowledge the cooperation of the Railways and particularly the willingness of Canadian Pacific to make available to Canadian National, for a period of five years, free running rights over its trackage between Brockville and Smiths Falls and the willingness of Canadian National to operate day and overnight services between Ottawa and Toronto.

IT IS HEREBY ORDERED AS FOLLOWS:

UPON Canadian National establishing morning and afternoon passenger train service between Ottawa and Toronto, as well as continuing its existing service between Montreal and Toronto, Canadian Pacific is authorized to discontinue passenger train service as follows:

- (a) between Montreal and Toronto;
- (b) between Ottawa and Toronto –
 - i – via Smiths Falls and Trenton
 - ii – via Smiths Falls and Havelock, upon re-establishing Trains 380 and 383 between Toronto and Peterborough.

Canadian National shall establish an overnight passenger service between Ottawa and Toronto as soon as possible subsequent to the date of this Order.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

For release 10:00 A.M.

January 14, 1966.

NEWS RELEASE

Order No. 119608, which was issued this morning by the Board of Transport Commissioners, is predicated upon an agreement that was reached between Canadian National Railways and Canadian Pacific Railway Company whereby only one railway, Canadian National, will furnish passenger train service between Montreal and Toronto and between Ottawa and Toronto. Canadian National's service will consist of morning, afternoon and overnight trains between Ottawa and Toronto. Morning and afternoon passenger train services provided by Canadian National will be established within ten days and overnight passenger train service within 30 days. The Canadian National service between Ottawa and Toronto will operate over Canadian National trackage between Ottawa and Smiths Falls and over Canadian Pacific trackage between Smiths Falls and Brockville.

Upon Canadian National establishing morning and afternoon passenger train service between Ottawa and Toronto Canadian Pacific is permitted by the Order to discontinue its passenger train services between Montreal and Toronto, Ottawa and Toronto via Smiths Falls and Trenton and between Ottawa and Toronto via Smiths Falls and Havelock upon re-establishing Trains 380 and 383 between Toronto and Peterborough.

It is the opinion of the Board that this will give an adequate and suitable service to the majority of railway patrons in the areas between Montreal and Toronto and Ottawa and Toronto.

ORDER NO. 119514

WEDNESDAY, THE 5TH DAY OF
JANUARY, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company", for authority to remove that portion of its branch line diverging from "L" Yard Lead in the City of Winnipeg, in the Province of Manitoba, which was authorized to be constructed by Order No. 2973 dated May 17, 1907.

File No. Case 1426

UPON receipt of the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicant Company is authorized to remove a portion of its branch line diverging from "L" Yard Lead in the City of Winnipeg, in the Province of Manitoba, as shown in red on Plan date stamped March 8, 1965, on file with the Board under File No. Case 1426.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 119674

WEDNESDAY, THE 19TH DAY OF
JANUARY, A.D. 1966

ROD KERR, Q.C.,
Chief Commissioner.
J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the joint application of the Canadian Pacific Railway Company and Canadian National Railways under section 318 of the Railway Act, for an Order approving the pooling of tolls and dividing of earnings in respect to the establishment and operation of a joint telegraph office at North Sydney, in the Province of Nova Scotia:

AND IN THE MATTER OF the joint application of the Canadian Pacific Railway Company and Canadian National Railways for approval of a Memorandum of Understanding dated September 27, 1965, pursuant to section 380(12) of the Railway Act:

File No. 10041.174

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Pacific Railway Company and Canadian National Railways are authorized to pool the tolls and divide the earnings of a joint telegraph office at North Sydney, in the Province of Nova Scotia, in accordance with a Memorandum of Understanding dated September 27, 1965, which is hereby approved.

(SGD) ROD KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 119709

FRIDAY, THE 21ST DAY OF
JANUARY, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.

H.H. GRIFFIN,
Asst. Chief Commissioner.

J.E. DUMONTIER,
Deputy Chief Commissioner.

J.M. WOODARD,
Commissioner.

IN THE MATTER OF the application of Canadian National Railways, hereinafter called the "Applicants", under sections 33, 34, 196 and all other relevant sections of the Railway Act, for an Order granting leave to the Applicants to use and enjoy jointly with the Canadian Pacific Railway Company certain trackage between Smiths Falls and Brockville, in the Province of Ontario, as set out in their application dated January 20, 1966, on file with the Board under file No. 49232;

AND IN THE MATTER OF the application of the said Applicants to operate their passenger trains over the said trackage:

File No. 49232

WHEREAS by Order No. 119608, dated January 14, 1966, Canadian Pacific Railway Company was authorized to discontinue passenger train service between Montreal and Toronto, and between Ottawa and Toronto as set out in the said Order, upon the Applicants establishing morning and afternoon passenger service between Ottawa and Toronto as well as continuing their existing service between Montreal and Toronto;

AND WHEREAS the Applicants were directed to establish an over-night passenger service between Ottawa and Toronto as soon as possible subsequent to the date of the said Order;

AND WHEREAS the Applicants have advised the Board that they propose to establish their morning and afternoon passenger train service between Ottawa and Toronto beginning on Monday, January 24th, 1966, and to establish over-night passenger service between Ottawa and Toronto on or about Monday, February 14th, 1966;

AND WHEREAS, in order to implement the directives contained in the said Order No. 119608, the Applicants require leave to use and enjoy certain trackage of the Canadian Pacific Railway Company;

AND WHEREAS Canadian Pacific Railway Company has agreed to make available to the Applicants free running rights over its trackage between Brockville and Smiths Falls;

UPON reading the submissions filed; and upon the recommendation of the Directors of Engineering and Operation of the Board—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicants are authorized:

1. To use and enjoy jointly with Canadian Pacific Railway Company the trackage of Canadian Pacific Railway Company as follows:

(a) From the point of connection of Canadian National Railways with the switching lead of the Canadian Pacific Railway Company at Smiths Falls Yard to the Smiths Falls station of the Canadian Pacific Railway Company, a distance of 0.38 miles.

(b) From the said Smiths Falls station to the junction switch of Canadian Pacific Railway Company's Brockville Subdivision, a distance of 0.7 miles.

(c) From the said junction switch, mile 0.00 of the Brockville Subdivision at Smiths Falls to Brockville, mile 27.8 of the said Brockville Subdivision of the Canadian Pacific Railway Company.

2. To have and exercise full right and power to run and operate their passenger trains, including express, if any, over and upon the said portion of railway.

3. This Order shall come into force on the 24th day of January, 1966, and shall remain in force until rescinded, changed, altered or varied by any Order or decision of the Board.

(SGD) ROD. KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 119729

FRIDAY, THE 21ST DAY OF
JANUARY, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

*IN THE MATTER OF the applica-
tion of Canadian National Railways,
hereinafter called the "Applicants",
for an Order authorizing the opening
of their Talbot Subdivision, in the
Province of Ontario, for the carriage
of traffic:*

File No. 49231

WHEREAS, pursuant to an approval of the Governor in Council set out in P.C. 1966-64, dated the 12th day of January, 1966, of an Agreement between the Canadian National Railway Company and the Corporation of the City of London, the Canadian National Railway Company purchased from the Corporation of the City of London the undertaking known as the London and Port Stanley Railway;

AND WHEREAS the said London and Port Stanley Railway has been incorporated into the Canadian National Railways as the Talbot Subdivision;

AND WHEREAS the Engineers of the Board recommend that the Applicants be authorized to operate over the said Subdivision.

IT IS HEREBY ORDERED AS FOLLOWS:

1. Canadian National Railways are authorized to open, for the carriage of traffic, their Talbot Subdivision, being formerly the railway of the London and Port Stanley Railway.

2. No engine, car or train shall enter the crossing of the highway and the railway at mileage 17.1 Talbot Subdivision at speeds greater than ten miles per hour.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 119757

FRIDAY, THE 28TH DAY OF
JANUARY, A.D. 1966.

J.M. WOODARD,
Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways for authority to abandon the trackage known as Martin's Spur, or Hope Farm Spur, leading from the Letellier Subdivision at mileage 46.95, a distance of approximately 2¾ miles, in the area of the Parish of Ste. Agathe, in the Province of Manitoba:

File No. 39310.148

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian National Railways are authorized to abandon the trackage known as Martin's Spur, or Hope Farm Spur, leading from the Letellier Subdivision at mileage 46.95, a distance of approximately 2¾ miles, in the area of the Parish of Ste. Agathe, in the Province of Manitoba.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

**ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, NOVEMBER, 1965.**

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents	245	9	327
Level Crossing Accidents	50	20	56
	<u>295</u>	<u>29</u>	<u>383</u>

	<u>Killed</u>	<u>Injured</u>
Passengers	—	122
Employees	3	193
Others	27	67
	<u>30</u>	<u>382</u>

Of the 50 accidents at Highway Crossings, 41 occurred where standard railway crossing signs are located, 8 where additional forms of protection are in use, 21 after Sunrise and 29 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 119489 January 4 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway in Chatham, Ont., mileage 65.82 Windsor Subd.
- 119490 January 4 – Authorizing the removal of the speed limitation at crossing of the C. & O.R. and Chatham St., in Blenheim, Ont., mileage 74.70 No. 1 Subd.
- 119491 January 4 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway in Twp. of Nissouri, Ont., mileage 105.68 Galt Subd.
- 119492 January 4 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway in Fannystelle, Man., mileage 30.73 Glenboro Subd.
- 119493 January 4 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Pont Rouge, P.Q., mileage 135.02 Quebec Subd.
- 119494 January 4 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and 55th Ave. in Lloydminster, Alta., mileage 84.91 Blackfoot Subd.
- 119495 January 4 – Requiring the G.N.R. to install automatic protection at crossing of its railway and Elevator Road, District of Surrey, B.C., mileage 138.9 Third Subd.
- 119496 January 4 – Approving location of proposed flammable liquid transfer facilities of Texaco Canada Limited at Antigonish, N.S., C.N.R.
- 119497 January 4 – Approving location of proposed additional flammable liquid storage facilities of Imperial Oil Limited at Elrose, Sask., C.N.R.
- 119498 January 4 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway near Belleville, Ont., mileage 94.46 Belleville Subd.
- 119499 January 4 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway in Rosetown, Sask., mileage 66.99 Rosetown Subd.
- 119500 January 4 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway in Crombies, Ont., mileage 11.57 Owen Sound Subd.

- 119501 January 4 – Approving the location of proposed flammable liquid storage facilities of Imperial Oil Limited at Smeaton, Sask., C.P.R.
- 119502 January 5 – Authorizing the Quebec Dept. of Roads to relocate 5th Avenue where it crosses the C.N.R. in St. Pierre, P.Q., over the Canal Bank Spur West, mileage 4.26 Montreal Subd.
- 119503 January 5 – Authorizing the C.N.R. to operate under the overhead bridge carrying Trans Canada Highway across and over their track at mileage 128.6 St. John's Subd., Nfld.
- 119504 January 5 – Authorizing the C.P.R. to remove the station building at Benton, N.B.
- 119505 January 5 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 119506 January 5 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Queen St., Mount Forest, Ont., mileage 10.70 Durham Subd.
- 119507 January 5 – Relieving the C.N.R. from erecting right-of-way fences between mileages 21.2 and 21.9 on the Athabasca Subd., Alta.
- 119508 January 5 – Authorizing the C.N.R. to operate under the overhead bridge carrying Brookdale Ave. over their tracks in Cornwall, Ont., mileage 68.95 Cornwall Subd.
- 119509 January 5 – Authorizing the C.N.R. to construct the main track of the Brantford Industrial Lead across Craig St., in Brantford, Ont., mileage 0.31 of said lead which commences at mileage 21.34 Dundas Subd.
- 119510 January 5 – Authorizing the C.N.R. to operate under the overhead bridge which crosses their tracks at mileage 13.42 Goderich Subd., County of Perth, Ont.
- 119511 January 5 – Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Victoria Subd., B.C.
- 119512 January 5 – Amending Order No. 90897, pertaining to the speed of trains through the interlocker at crossing of the C.P.R. and C.N.R. in Regina, Sask., mileage 115.27 Lewvan Subd., C.N.R.
- 119513 January 5 – Approving overhead clearances on C.N.R. trackage serving Western Rolling Mills Limited at Calgary, Alta., mileage 124.15 Three Hills Subd.
- *119514 January 5 – Authorizing the C.P.R. to remove a portion of its branch line diverging from "L" Yard Lead in Winnipeg, Man. (See page 146, 56 B.T.C.)

- 119515 January 5 - Authorizing the C.P.R. to make changes to the signals at crossing of its railway and the C.N.R. near Glencoe, Ont., mileage 31.94 Windsor Subd., upon the removal of the level crossing.
- 119516 January 5 - Authorizing the Saskatchewan Department of Highways and Transportation to reconstruct Highway No. 19 where it crosses the C.P.R. near Glenbain, Sask., mileage 59.25 Vanguard Subd.
- 119517 January 5 - Authorizing the C.N.R. to construct an industrial spur leading from Pleasant Point Subd. at mileage 77.41, across 17th St. (Sunshine Hwy. P.R. 344) in Brandon, Man.
- 119518 January 5 - Approving overhead clearances on the C.N.R. siding serving Newman Steel Warehouse Limited, Stoney Creek, Ont., mileage 36.50 Grimsby Subd.
- 119519 January 5 - Authorizing the Quebec Dept. of Roads to realign and widen 12th Range Road across the C.P.R. in Ste. Agathe, P.Q., mileage 42.1 Ste. Agathe Subd.
- 119520 January 5 - Authorizing the C.N.R. to operate under the overhead bridge carrying Trans Canada Highway across and over their railway at mileage 90.17 St. John's Subd., Nfld.
- 119521 January 5 - Authorizing the removal of the speed limitation at crossing of the C.P.R. and Dunlevy Ave., in Vancouver, B.C., mileage 128.24 Cascade Subd.
- 119522 January 5 - Authorizing the C.N.R. to construct a siding to serve the Atlantic Sugar Refining Company across Bancroft St., Hamilton, Ont., mileage 38.36 Grimsby Subd.
- 119523 January 5 - Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 268, at Birch River, Man., mileage 21.86 Erwood Subd.
- 119524 January 5 - Authorizing the C.N.R. to install two main track switches without electric locks to serve the siding of Raoul Couturier Lumber Limited, mileage 10.94 Monk Subd., P.Q.
- 119525 January 5 - Authorizing the C.N.R. to install a main track switch without electric lock at mileage 2.7 Springhill Subd., N.S., and make changes to traffic control signals between mileages 0.6 and 4.8.
- 119526 January 5 - Approving changes in the automatic protection at crossing of the C.P.R. and Township Road, Twp. of Blandford, Ont., mileage 81.32 Galt Subd.

- 119527 January 5 - Authorizing the C.P.R. to relocate the signals of its centralized traffic control installation at Toronto, Ont., mileage 204.2 Belleville Subd.
- 119528 January 5 - Amending Order No. 119095 which authorized construction of a road across the C.P.R. at mileage 44.76 Sutherland Subd., Sask.
- 119529 January 5 - Authorizing the Village of Rycroft, Alta., to widen Alberta St. across the N.A.R. at mileage 352.21 Smoky Subd.
- 119530 January 5 - Approving changes in the automatic protection at crossing of the C.N.R. and McAra St., Regina, Sask., mileage 91.38 Glenavon Subd.
- 119531 January 5 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highway No. 502, in Napanee, Ont., mileage 199.76 Gananoque Subd.
- 119532 January 5 - Approving changes to the automatic protection at crossing of the C.P.R. and King St., in Weston, Ont., mileage 3.95 MacTier Subd.
- 119533 January 5 - Approving changes in the automatic protection at crossing of the C.P.R. and John St., Weston, Ont., mileage 3.84 MacTier Subd.
- 119534 January 5 - Approving Appendix "A" and Supplements to Traffic Agreement between The Bell Telephone Company of Canada and the Thamesville Telephone Company Limited.
- 119535 January 6 - Approving Supplement and new Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone de St-Sébastien d'Iberville.
- 119536 January 6 - Requiring the Algoma Central Railway to pay the cost of maintenance of the crossing of Hudson St. and its railway in Sault Ste. Marie, Ont., mileage 1.0 Soo Subd.
- 119537 January 6 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Darling Island Highway at mileage 70.25 Sussex Subd., N.B.
- 119538 January 6 - Requiring the C.P.R. to install automatic protection at crossing of its railway and Highway No. 457, in Chater, Man., mileage 129.72 Carberry Subd.
- 119539 January 6 - Requiring the C.P.R. to install automatic protection at crossing of its railway and Blue Sea Road, in Messines, P.Q., mileage 70.63 Maniwaki Subd.

- 119540 January 6 – Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 80 across the C.N.R. near Yarbo, Sask. at mileage 1.40 of the Industrial Spur serving International Minerals and Chemical Corporation Limited.
- 119541 January 6 – Authorizing the City of Winnipeg, Man., to widen Pioneer Ave. (formerly Notre Dame Ave. East) where it crosses the C.N.R. at mileage 0.18 Winnipeg Transfer Rly.
- *119542 January 7 – Authorizing the C.P.R. to discontinue operation of trains Nos. 3, 4, 13 and 14 known as "The Dominion" in accordance with Judgment issued. (See page 62, 56 B.T.C.)
- 119543 January 6 – Approving changes in the automatic protection at crossing of the C.N.R. and the highway at Conquerall, N.S., mileage 86.40 Chester Subd.
- 119544 January 6 – Authorizing the C.N.R. to relocate the signal at crossing of their railway and Highway No. 4 in Rosetown, Sask., mileage 67.48 Rosetown Subd.
- 119545 January 6 – Approving changes in the automatic protection at crossing of the C.N.R. and Hirtle Road, known as Middlewood crossing, N.S., mileage 92.6 Chester Subd.
- 119546 January 6 – Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Carberry Subd., Man.
- 119547 January 6 – Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Lyleton Subd., Man.
- 119548 January 6 – Requiring the A.C.R. to install automatic protection at crossing of its railway and Highway No. 556, in Deroche Township, Ont., mileage 23.14 Soo Subd.
- 119549 January 6 – Authorizing the C.P.R. to operate on its bridge over the Columbia River, at Revelstoke, B.C., mileage 1.7 Shuswap Subd.
- 119550 January 6 – Authorizing the C.N.R. to improve the automatic protection at crossing of their railway and the highway in Twp. of March, Ont., mileage 19.50 Beachburg Subd.
- 119551 January 6 – Requiring the C.N.R. to improve the automatic protection at crossing of their railway and Brookfield Road, in Mount Pearl, Nfld., mileage 3.37 St. John's Subd.
- 119552 January 7 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and P.T.H. #75, 1.1 miles south from Morris Station, Man., mileage 38.50 Letellier Subd.

- 119553 January 7 - Requiring the C.N.R. to install automatic protection at crossing of their railway and No. 50 Side Road in Winona, Ont., mileage 31.67 Grimsby Subd.
- 119554 January 7 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 77.3 Yale Subd., B.C.
- 119555 January 7 - Amending Order No. 113282, re apportionment of cost of reconstructing the subways at mileage 0.2 Redditt Subd., C.N.R., in Sioux Lookout, Ont.
- 119556 January 7 - Approving location of proposed diesel fuel oil storage facilities of the C.P.R. at Toronto Yard, Ont.
- 119557 January 7 - Requiring the C.N.R. to install automatic protection at crossing of D'Amours Road and their railway in Notre Dame des Neiges des Trois Pistoles, P.Q., mileage 160.74 Mont Joli Subd.
- 119558 January 7 - Authorizing the removal of the speed limitation at crossing of the C.P.R. and Kyle St., Port Moody, B.C., mileage 115.95 Cascade Subd.
- 119559 January 7 - Requiring the C. & O.R. to install automatic protection at crossing of its railway and Kent County Road No. 15 in Dresden, Ont., mileage 29.70 No. 2 Subd.
- 119560 January 7 - Approving location of proposed additional diesel fuel oil transfer facilities of the C.P.R. at Edmonton, Alta.
- 119561 January 7 - Authorizing the Township of Cambridge, Ont., to relocate and reconstruct its Municipal Road where it crosses the C.N.R. at mileage 51.59 to mileage 51.57 Alexandria Subd.
- 119562 January 7 - Authorizing the County of Peel, Ont., to improve the view lines at crossing of County Road No. 7 and the C.N.R., mileage 42.66 Beeton Subd.
- 119563 January 7 - Authorizing the Quebec Dept. of Roads to widen Smallman Side Road across the C.N.R. at mileage 26.45 Massena Subd.
- 119564 January 7 - Authorizing the Quebec Dept. of Roads to reconstruct Highway No. 36 where it crosses the Napierville Junction Rly. at mileage 13.17 Rouses Point Subd., Napierville P.Q.
- 119565 January 7 - Approving changes in the automatic protection at crossing of the C.N.R. and Greenlane Road, Doncaster, Ont., mileage 16.52 Bala Subd.

- 119566 January 7 – Authorizing the Quebec Dept. of Roads to widen 2nd Range Road where it crosses the C.N.R. at mileage 61.32 Joliette Subd., Charette, P.Q.
- 119567 January 7 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Nobel, Ont., mileage 28.82 Parry Sound Subd.
- 119568 January 7 – Requiring the A.C.R. to install automatic protection at crossing of its railway and Highway No. 556, in Aweres Township, Ont., mileage 17.51 Soo Subd.
- 119569 January 7 – Authorizing the C.P.R. to construct a siding to serve Pak Well Produce Limited across 1st Ave. South in Vauxhall, Alta., mileage 49.6 Suffield Subd.
- 119570 January 7 – Approving changes in the automatic protection at crossing of the C.N.R. and Granada Road in Rouyn, P.Q., mileage 98.49 Val d'Or Subd.
- 119571 January 7 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3 in Brooklyn, N.S., mileage 106.39 Chester Subd.
- 119572 January 7 – Authorizing the C.P.R. to remove the caretaker and the station building at Barnwell, Alta., and to replace the building with a portable shelter.
- 119573 January 7 – Authorizing the C.P.R. to remove the caretaker and close the station building at Bonfield, Ont.
- 119574 January 7 – Approving Appendices to Traffic Agreement between the C.N.R. and The Bell Telephone Company of Canada.
- 119575 January 7 – Amending Order No. 110061, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and King Road, Burlington, Ont., mileage 33.31 Oakville Subd.
- 119576 January 7 – Rescinding the requirement to flag all switching movements over the crossing of the C.N.R. and Bridge St. in Hastings, Ont., mileage 41.20 Campbellford Subd.
- 119577 January 7 – Authorizing the Town of The Pas, Man., to construct a pedestrian crossing across the C.N.R. at mileage 0.34 Wekusko Subd.
- 119578 January 7 – Relieving the C.P.R. from erecting right of way fencing on the north side of its Boissevain Subd., Man., between mileages 5.26 and 5.75.

- 119579 January 7 - Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3 at Hubley, N.S., mileage 13.02 Chester Subd.
- 119580 January 10 - Approving location of flammable liquid facilities of Imperial Oil Limited at Lacombe, Alta., C.P.R.
- 119581 January 10 - Approving location of proposed diesel fuel oil storage facilities of the C.N.R. at Flin Flon, Man.
- 119582 January 10 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Township Road, 1.5 miles east of Mc-Millan, Ont., mileage 69.5 Midland Subd.
- 119583 January 10 - Authorizing the C.P.R. to remove the station agent at Heron Bay, Ont., provided a resident caretaker is appointed and available for duty.
- 119584 January 10 - Authorizing the C.P.R. to remove the caretaker and the station building at Jeanette, Ont.
- 119585 January 10 - Authorizing the C.P.R. to remove the caretaker and station building at Millbank, Ont.
- 119586 January 10 - Authorizing the C.P.R. to remove the caretaker and the station building at Elmstead, Ont.
- 119587 January 10 - Authorizing the C.P.R. to remove the caretaker and the station building at Elora, Ont.
- 119588 January 10 - Authorizing the C.N.R. to remove the station agent and the station building at Eades, Ont.
- 119589 January 10 - Authorizing the C.P.R. to remove the caretaker at Woodrow, Sask.
- 119590 January 11 - Approving location of proposed ammonium nitrate storage facilities of the Southern Alberta Co-Operative Association Ltd. at Coaldale, Alta., C.P.R.
- 119591 January 11 - Authorizing the C.N.R. to reconstruct the farm road overhead bridge crossing the C.N.R. at mileage 95.26 Cayuga Subd., Tillsonburg, Ont.
- 119592 January 11 - Authorizing The International Nickel Company of Canada Limited to work the mines within forty yards adjacent to the C.P.R. in Lots 1 and 2, Conc. 2 Drury Township, Ont.
- 119593 January 12 - Dismissing application of the C.N.R. for authority to remove the agent at Unionville, Ont.
- 119594 January 12 - Authorizing the C.P.R. to remove the caretaker and the station building at Fassett, P.Q., provided the station building is replaced by a shelter.

- 119595 January 12 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 119596 January 12 – Approving toll published in tariff filed by the Cumberland Railway Company under section 8 of the M.F.R.A.
- 119597 January 12 – Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 119598 January 12 – Approving revisions to tariffs filed by Canadian National Telecommunications.
- 119599 January 12 – Approving location of proposed diesel oil storage facilities of the C.N.R. at Winnipeg, Man.
- 119600 January 12 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Tramsou Range, east of St. Justin, P.Q., mileage 77.56 Joliette Subd.
- 119601 January 12 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and 8th Range Road (Heroux Rd.) in St. Boniface, P.Q., mileage 58.58 Joliette Subd.
- 119602 January 12 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Ste. Cecile St., in St. Tite, P.Q., mileage 7.04 Linton Subd.
- 119603 January 12 – Authorizing the C.N.R. to operate over the subway structure which carries their railway across and over 82nd St., in Edmonton, Alta., mileage 1.16 "C" Line of the Edmonton Terminal Subd.
- 119604 January 12 – Authorizing the C.N.R. to operate under the overhead bridge which carries Highway No. 11 over their tracks at mileage 99.1 Newmarket Subd. and mileage 89.12 Bala Subd., Twp. of Orillia, Ont.
- 119605 January 13 – Authorizing the C.N.R. to construct a wye track in the vicinity of mileage 2.73 Grimsby Subd.; to construct the said wye track across Stanley St., vicinity of mileage 0.27 Welland Subd., and to relocate the existing main track of the Welland Subd. across Stanley St., all in Niagara Falls, Ont.
- 119606 January 13 – Authorizing the County of Strathcona No. 20, Alta., to reconstruct the County Road where it crosses the C.N.R. at mileage 245.65 Wainwright Subd.
- 119607 January 13 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 4 near Hamlin, Sask., mileage 0.70 Hatherleigh Subd.

- *119608 January 14 – Authorizing the C.N.R. to establish passenger train service between Montreal and Toronto, and Ottawa and Toronto, (C.N.R. and C.P.R.) (See page 143, 56 B.T.C.)
- 119609 January 14 – Authorizing the C.N.R. to remove the station agent and the station at Dix, P.Q.
- 119610 January 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Harris Road, N.S., mileage 66.75 Oxford Subd.
- 119611 January 14 – Requiring the C.N.R. to install improved protection at crossing of their railway and Rectory St. in London, Ont., mileage 76.84 Dundas Subd.
- 119612 January 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Cornwall Road, in Blockhouse, N.S., mileage 68.30 Chester Subd.
- 119613 January 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Provincial Highway No. 3, Brooklyn, N.S., mileage 107.52 Chester Subd.
- 119614 January 14 – Requiring the N.Y.C.R. to install improved protection at crossing of its railway and Highway No. 21 in Ridgetown, Ont., mileage 157.68 N.F. Main Line.
- 119615 January 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3, near Martin's Cove, N.S., mileage 60.1 Chester Subd.
- 119616 January 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Victoria Road, Bridgewater, N.S., mileage 80.45 Chester Subd.
- 119617 January 14 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 5.28 Oak Point Subd., to mileage 14.28 Miami Subd., Man.
- 119618 January 14 – Requiring the C.P.R. to install protection at crossing of its railway and the Labelle-La Macaza Highway in La Macaza, P.Q., mileage 83.46 Ste. Agathe Subd.
- 119619 January 14 – Authorizing the C.P.R. to remove the station agent and station building at Andover, N.B.
- 119620 January 14 – Dismissing application of the C.P.R. for authority to remove the caretaker and close the station building at Locust Hill, Ont., mileage 173.7 Havelock Subd.

- 119621 January 14 – Authorizing the C.P.R. to remove the station building at Puslinch, Ont.
- 119622 January 14 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Martineau Road, in Ste. Anne de la Pocatiere, P.Q., mileage 39.60 Montmagny Subd.
- 119623 January 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 104.22 Joliette Subd., Joliette, P.Q.
- 119624 January 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at Gerald, Sask., mileage 231.70 Rivers Subd.
- 119625 January 14 – Authorizing the removal of the speed limitation at crossing of Cliff St. and the C.P.R. at Enderby, B.C., mileage 23.00 Okanagan Subd.
- 119626 January 14 – Approving tolls published in tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 119627 January 14 – Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 119628 January 14 – Approving location of proposed flammable liquid storage facilities of Shell Canada Limited at Wabowden, Man., C.N.R.
- 119629 January 17 – Amending Order No. 108810, re apportionment of cost of constructing an overhead bridge to carry Highway No. 17 across and over the C.N.R. at mileage 16.46 Kashabowie Subd., Ont.
- 119630 January 17 – Requiring the C.P.R. to install automatic protection at crossing of its railway and Chemin de la Riviere du Nord, in Ayersville, P.Q., mileage 45.48 Lachute Subd.
- 119631 January 17 – Authorizing the removal of the speed limitation at crossing at Queen St., Highway No. 7 and the C.N.R. at Brampton, Ont., mileage 15.05 Halton Subd.
- 119632 January 17 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. in Ste. Scholastique, P.Q., mileage 32.48 Lachute Subd.
- 119633 January 18 – Approving location of proposed transfer facilities for condensate and crude petroleum of the Bow River Pipe Lines Limited at Fincastle, Alta., C.P.R.
- 119634 January 18 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 4.05 Carman Subd., to mileage 8.15 Rosburn Subd., Man.

- 119635 January 18 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 103.29 Thessalon Subd., to mileage 14.78 Cartier Subd., Ont.
- 119636 January 18 – Approving location of a new station proposed to be erected by the C.N.R. at Lynn Lake, Man.
- 119637 January 18 – Authorizing The Bell Telephone Company of Canada to transfer certain exchanges from one Exchange Rate Group to another Exchange Rate Group.
- 119638 January 18 – Authorizing the City of Joliette, P.Q., to construct Firestone Blvd. across the C.P.R. at mileage 6.95 St. Gabriel Subd.
- 119639 January 18 – Approving revisions to tariffs filed by Canadian National Telecommunications.
- 119640 January 18 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and St. Charles Road, mileage 2.59 St. Gabriel Subd., P.Q.
- 119641 January 18 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Thamesville, Ont., mileage 49.09 Windsor Subd.
- 119642 January 18 – Authorizing the C.N.R. to reconstruct the bridge crossing a creek at mileage 27.4 Telkwa Subd., B.C.
- 119643 January 18 – Authorizing the Municipal District of Bonnyville No. 87 to reconstruct the municipal road where it crosses the C.N.R. at mileage 25.05 Bonnyville Subd., Alta.
- 119644 January 18 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Provincial Road No. 271 at Pine River, Man., mileage 48.52 Cowan Subd.
- 119645 January 18 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 16, east of Willow River, B.C., mileage 124.83 Fraser Subd.
- 119646 January 18 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 16 at Giscome, B.C., mileage 122.74 Fraser Subd.
- 119647 January 18 – Authorizing the Quebec Dept. of Roads to widen Wharf Road where it crosses the C.P.R. in Hudson, P.Q., mileage 8.35 M. & O. Subd.
- 119648 January 18 – Approving changes in the automatic protection at crossing of the C.N.R. and the highway in Blockhouse, N.S., mileage 68.24 Chester Subd.

- 119649 January 18 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 6.78 Newcastle Subd., to mileage 50.22 Caraque Subd., N.B.
- 119650 January 18 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 28.52 to mileage 15.40 Port Burwell Subd., Ont.
- 119651 January 18 – Requiring the C.N.R. (Great Slave Lake Railway) to install automatic protection at crossing of their railway and the Northwest Territories Highway No. 1 to Yellowknife at Enterprise, mileage 350.24.
- 119652 January 18 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3 in East River, N.S., mileage 40.10 Chester Subd.
- 119653 January 18 – Approving changes in the automatic protection at crossing of the C.N.R. and Lac St. Joseph East Road, in Ste. Catherine, P.Q., mileage 20.91 St. Raymond Subd.
- 119654 January 18 – Approving changes in the automatic protection at crossing of the C.N.R. and the highway in Bridgewater, N.S., mileage 74.85 Chester Subd.
- 119655 January 18 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 15.2 to mileage 38.75 Cranbrook Subd., B.C.
- 119656 January 18 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 7.82 Cayuga Subd., to mileage 34.81 Burford Subd., Ont.
- 119657 January 18 – Requiring the C.N.R. to install protection at crossing of their railway and the Pine Point Branch of the Great Slave Lake Rly. and No. 2 Highway, in the Northwest Territories, mileage 0.54 Pine Point Branch.
- 119658 January 18 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 46.16 Sydney Subd., to mileage 1.52 Caledonia Subd., N.S.
- 119659 January 18 – Amending Order No. 108883, re apportionment of cost of constructing an overhead bridge to carry Highway No. 17 across and over the C.N.R. at mileage 104.59 Kaministiquia Subd., Ont.
- 119660 January 18 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3 at Martin's Point, N.S., mileage 58.9 Chester Subd.

- 119661 January 18 – Authorizing the removal of the speed limitation at crossing of Garner Road and the C.N.R. at Stamford, Ont., mileage 4.72 Welland Subd.
- 119662 January 19 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 12 in Chester Basin, N.S., mileage 53.6 Chester Subd.
- 119663 January 19 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Argyle Head Road, at Argyle, N.S., mileage 117.96 Yarmouth Subd.
- 119664 January 19 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 100.89 Erwood Subd., to mileage 74.87 Cowan Subd., Man.
- 119665 January 19 – Authorizing the Rural Munic. of Bjorkdale No. 426 to improve the sight lines where the road crosses the C.N.R. at mileage 51.84 Tisdale Subd., Sask.
- 119666 January 19 – Authorizing the C.N.R. to remove the agent at Corning, Sask., provided a resident caretaker is appointed and available for duty.
- 119667 January 19 – Approving changes in the automatic protection at crossing of the C.N.R. and 4th Range Road, north of Val Cartier, P.Q., mileage 16.60 St. Raymond Subd.
- 119668 January 19 – Authorizing the C.N.R. to operate over the subway carrying their railway across and over Highway No. 10, in The Pas, Man., mileage 0.39 Wekusko Subd.
- 119669 January 19 – Authorizing the C.N.R. to close, within the limits of their right of way, the existing public crossing of Cabana Place South at mileage 0.23 Rat Portage spur, St. Boniface Yard Lead, commencing at mileage 149.63 Sprague Subd., Man.
- 119670 January 19 – Approving changes in the automatic protection at crossing of the C.N.R. and St. Clair Avenue East, Scarborough, Ont., mileage 325.18 Oshawa Subd.
- 119671 January 19 – Approving changes in the automatic protection at crossing of the C.N.R. and Lac Sergeant Road, at Duchesnay, P.Q., mileage 22.94 St. Raymond Subd.
- 119672 January 19 – Approving location of proposed liquefied petroleum gas storage facilities of Thompson Gas Limited, at Thompson, Man., C.N.R.
- 119673 January 19 – Dismissing application of the C.P.R. for authority to remove the caretaker and close the station building at Pontypool, Ont., mileage 139.1 Havelock Subd.

- *119674 January 19 – Authorizing the C.P.R. and C.N.R. to pool the tolls and divide the earnings of a joint telegraph office at North Sydney, N.S. (See page 147, 56 B.T.C.)
- 119675 January 19 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and 8th Line Road, Twp. of Trafalgar, Ont., mileage 20.6 Oakville Subd.
- 119676 January 19 – Authorizing the removal of the speed limitation at crossing of Henri Bourassa Boulevard (Leduc Boulevard) and the C.N.R. at Montreal North, P.Q., mileage 134.85 Joliette Subd.
- *119677 January 20 – Authorizing the C.P.R. to abandon operation of part of its Rossland Subd. between Warfield and Rossland, B.C., a distance of 7.5 miles (See page 142, 56 B.T.C.).
- 119678 January 20 – Approving changes in the automatic protection at crossing of the C.P.R. and Main St. in Almonte, Ont., mileage 24.18 Chalk River Subd.
- 119679 January 20 – Requiring the City of Sudbury and the C.N.R. to install automatic protection at crossing of Bloor and Lansdowne Sts. and the C.N.R. in Sudbury, Ont., mileage 5.77 Sudbury Terminal Subd.
- 119680 January 20 – Amending Order No. 118472, which authorized the Nfld. Dept. of Highways to construct an overhead bridge to carry the Trans Canada Highway across and over the C.N.R. at mileage 399.73 Bishop's Falls Subd.
- 119681 January 20 – Allocating the cost of constructing the overhead bridge at mileage 399.12 Bishop's Falls, Nfld., C.N.R.
- 119682 January 20 – Amending Order No. 118712, which authorized construction of Highway No. 550 across the C.P.R. in Indian Reserve No. 15D, Rankin Location, District of Algoma, Ont.
- 119683 January 20 – Authorizing the City of Saint-Jerome, P.Q. to construct Mgr. Dubois Boulevard across the C.N.R., mileage 1.12 St. Jerome Spur, commencing at mileage 30.95 Montfort Subd.
- 119684 January 20 – Requiring The Bell Telephone Company of Canada and Hydro-Quebec to remove or relocate their existing facilities to permit construction of the overhead bridge to carry Third St. (Cartier St.) across and over the C.P.R. in Laval des Rapides, P.Q., mileage 10.58 Park Avenue Subd., and allocating the cost of such removal.

- 119685 January 20 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Nadeau Road, west of Mackenzie, N.B., mileage 18.68 Monk Subd.
- 119686 January 20 - Requiring the C.P.R. to improve the protection at crossing of its railway and Main St., in Lancaster, N.B., mileage 0.26 West Saint John Subd.
- 119687 January 20 - Relieving the C.P.R. from erecting right of way fences between certain mileages on its Macleod Subd., Alta.
- 119688 January 20 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Clement Pare Access Road in Chateau Richer, P.Q., mileage 18.62 Murray Bay Subd.
- 119689 January 20 - Authorizing the County of Middlesex, Ont., to reconstruct the overhead bridge carrying County Road No. 5 across and over the C.N.R. at mileage 8.07 Strathroy Subd.
- 119690 January 20 - Approving changes in the automatic protection at crossing of the C.N.R. and the highway in Hebbville, N.S., mileage 82.36 Chester Subd.
- 119691 January 20 - Requiring the C.P.R. to install automatic protection at crossing of its railway and P.T.H. No. 7 in Stoney Mountain, Man., mileage 11.15 Arborg Subd.
- 119692 January 20 - Approving location of proposed office building of Shell Canada Limited at Chipman, Alta., C.N.R.
- 119693 January 20 - Amending Order No. 116786, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Perth St., in Brockville, Ont., mileage 125.65 Gananoque Subd.
- 119694 January 20 - Authorizing the C.N.R. to remove the caretaker at Chaudiere, P.Q., and replace the station building with a shelter.
- 119695 January 20 - Approving location of proposed Ammonium Nitrate storage facility of Eston Co-Operative Association Limited at Eston, Sask., C.N.R.
- 119696 January 20 - Approving location of proposed ammonium nitrate storage facility of Virden Co-Operative Limited at Virden, Man., C.P.R.
- 119697 January 20 - Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3 at Hubbards, N.S., mileage 32.81 Chester Subd.
- 119698 January 20 - Approving tolls published in tariffs filed by the Canadian Freight Association under section 3 of the M.F.R.A.

- 119699 January 20 - Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 119700 January 20 - Authorizing the C.P.R. to remove the station agent at Irricana, Alta., provided a resident caretaker is appointed and available for duty.
- 119701 January 20 - Approving location of proposed Ammonium Nitrate facility of Stanley Consumers Co-operative Limited at Winkler, Man., C.P.R.
- 119702 January 20 - Approving location of proposed flammable liquid storage facilities of Shell Canada Limited at Donalda, Alta., C.N.R.
- 119703 January 20 - Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. west of St. Lazare Station, Man., mileage 205.27 Rivers Subd.
- 119704 January 20 - Approving location of C.P.R. Bunker "C" storage facilities at Windsor, Ont.
- 119705 January 20 - Approving location of proposed flammable liquid unloading facilities of Imperial Oil Limited on C.P.R. right of way in Medicine Hat, Alta.

can. The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF Canadian Pacific Railway Company's trains Nos. 3, 4, 13 and 14, known as "The Dominion" and related matters.

File No. 27563.479

February 7, 1966

BEFORE:

ROD. KERR, Q.C.,
H.H. GRIFFIN,
J.M. WOODARD,

Chief Commissioner.
Assistant Chief Commissioner.
Commissioner.

SUPPLEMENTARY JUDGMENT

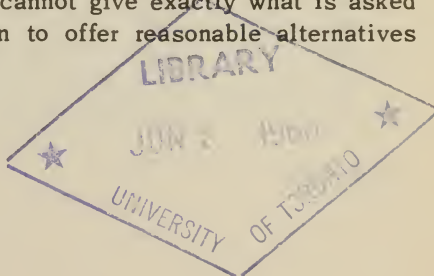
KERR, C.C.:

This Supplementary Judgment deals with two matters that were referred to and deferred in the Judgment herein dated January 7, 1966, namely, 1) Canadian National Railways' particulars of unfilled requests for reservations and 2) the question whether "The Dominion" should be resumed on a summer basis with sleepers, diners and coaches.

RESERVATIONS

Canadian National has now furnished particulars of unfilled requests for reservations. In its covering letter dated January 18, 1966, it furnished the particulars set forth hereunder and stated in part as follows:

"With respect to the matter of requests for reservations that we are unable to take care of, I would refer specifically to our remarks in the second paragraph of our letter of August 19. I am advised that it is our experience that it is indeed an exceptional case when it is not possible to offer some kind of reserved accommodation to all who apply for it. Admittedly there are instances when we cannot give exactly what is asked for, but invariably we are in a position to offer reasonable alternatives which are accepted in most cases.



The Board has indicated previously that it would like a record established which would indicate the extent to which we could not comply with the demands made upon us for reservations. Such a record has been kept and attached hereto are statements showing comparison between the requests for space which allegedly we could not fulfill, and the quantity of accommodation actually available on the trains when they left the terminals shown. I would emphasize again that the "unfilled" figures are to a great extent fallacious in that they do not, in our opinion, represent the true situation. We are satisfied that practically all those whose names have been placed on wait lists have in one way or another been taken care of in alternate space on another train or on another date, etc. This is very often done without mention of a previous wait-listing. Consequently, the names remain on the wait list. We feel that this viewpoint is borne out by the comparison of the wait list figures with the space available figures. We do consider, however, that there are circumstances where some passengers have to be satisfied with accommodation different to what they actually desire."

Train No. 1 from Montreal			Train No. 9 from Montreal	
Date	Unfilled Requests	Space Unassigned	Unfilled Requests	Space Unassigned
August 1	21	41	21	8
3	29	39	29	5
5	11	40	11	7
7	14	34	14	7
9	12	37	12	14
11	21	24	21	10
13	11	28	11	7
15	6	29	6	10
17	12	32	12	11
19	22	28	22	4
21	7	28	7	10
23	9	30	9	6
25	12	20	12	14
27	5	22	5	8
29	8	76	8	13
31	6	14	6	7

Train No. 51 from
TorontoTrain No. 109 from
Toronto

<u>Date</u>	<u>Unfilled Requests</u>	<u>Space Unassigned</u>	<u>Unfilled Requests</u>	<u>Space Unassigned</u>
August 1	23	29	1	11
3	14	16	3	2
5	7	21	5	12
7	15	25	22	
9	17	44	3	8
11	9	31	5	18
13	13	21	15	8
15	4	36	17	9
17	27	23	12	5
19	6	24	8	11
21	21	24	1	11
23	23	38	22	7
25	8	49	1	4
27	12	33	3	17
29	10	43	5	7
31	10	47	10	11

Train No. 2 from
VancouverTrain No. 52 from
Vancouver

<u>Date</u>	<u>Unfilled Requests</u>	<u>Space Unassigned</u>	<u>Unfilled Requests</u>	<u>Space Unassigned</u>
August 1	3	3	3	9
3	3	10	10	13
5	6	6	11	18
7	1	14	1	13
9	1	6	6	13
11	Nil	9	12	48
13	1	23	3	15
15	3	17	2	10
17	1	18	5	12
19	5	12	7	5
21	3	19	2	15
23	Nil	6	Nil	13
25	9		2	19
27	6	9	3	11
29	4	5	1	37
31	2	21	6	14

**Train No. 10 from
Vancouver**

<u>Date</u>	<u>Unfilled Requests</u>	<u>Space Unassigned</u>
August 1	Nil	10
3	7	9
5	Nil	6
7	1	12
9	2	11
11	3	7
13	Nil	13
15	2	10
17	1	4
19	2	8
21	1	15
23	2	6
25	7	8
27	1	5
29	Nil	10
31	3	5

SUMMER OPERATION OF "THE DOMINION"

As to the question of the summer operation of "The Dominion" I now repeat for convenience pages 85, 86, 87 and 88 of the previous Judgment in that respect, as follows:

"There remains the question of summer operation for the two and one-half months or so which is the principal holiday travelling season of the year in Canada. This is the period starting about the time when students get free of school in June and ending shortly after Labour Day in September.

The figures presented by the Company in Exhibit 4 show passenger revenues of "The Dominion" in 1964 amounting to \$477,273 in June, \$1,313,613 in July, \$1,261,181 in August, and \$355,260 in September; in 1965, \$368,261 in June and \$1,376,268 in July.

I have referred to the evidence as to passenger carryings on "The Dominion" in July 1965, ex-Vancouver and ex-Winnipeg at a time when "The Canadian" was operating to near capacity and reserved space was sold well in advance and difficulties in obtaining reservations were being experienced. Canadian Pacific says that the summer traffic on "The Dominion" was largely organized tour traffic from the United States which Canadian

Pacific aggressively solicited in past years but will not solicit in future. However, there is large-scale advertising inviting tourists to visit Canada. It is traffic that is sought by Canada and is beneficial to Canada's economy. Next year is Centennial Year, with the World's Fair in Montreal and other attractions elsewhere. Tourists will want to come. Travel in Canada by Canadian residents may also be expected to increase each year in the foreseeable future as population grows. Travel by air across Canada is becoming more suitable for the public and facilities for such travel are increasing; many persons travel by bus; and there is the private automobile. But many are not able or do not want to travel by air, bus or private automobile and they prefer rail travel, particularly for the long distances that are part of Canada.

Canadian Pacific gave evidence at the hearings to the effect that it will be necessary to make heavy repairs in 1966 to 74 Tuscan Red passenger cars, if "The Dominion" will be operated with a 17-car consist in the summer, a consist similar to the 1965 summer consist, and that the cost of putting those 74 cars in operating order will be \$1,385,000. In determining the number of cars required for a 17-car train the Company included 137 cars of various types and 13 standbys. The Company said that in addition to those expenses and the cost of operating the train, there would be running repairs amounting to \$789,000, so that the total cost of passenger car repairs for 1966 would be \$2,174,000, not including certain smaller items of cost; and that in subsequent years the remaining 66 Tuscan Red cars would require heavy repairs, as would also 5 Park cars and 5 Skyline coaches. There was evidence that heavy repairs are made at intervals of approximately five years, that in between the heavy repairs light repairs are made after three years, and that the cost of light repairs varies from \$5,000 for a baggage car to \$7,500 for a diner.

I do not question the fact that the older type passenger cars in use on "The Dominion" will have to be repaired and used again if the train repeats its 1965 summer operation and that the repairs will involve substantial expenses.

However, Canadian Pacific did not offer evidence at the hearings as to the revenues and expenses to be expected if "The Dominion" operates in the summers of 1966 and 1967 as it did in the summer of 1965. The Board consequently asked for such figures and there has been some discussion with Mr. Nepveu in that respect. In a letter dated December 24, 1965, Canadian Pacific stated in part as follows:

1. Assuming present operation to continue in 1966 and 1967 except for summer period from the last week of June to the day following Labour Day during which "The Dominion" would be operated with full passenger consist comparable with that of the summer 1965.

	<u>1966</u>	<u>1967</u>
Revenues	\$ 5,009,000	\$ 5,009,000
Variable cost	<u>12,962,000</u>	<u>12,544,000</u>
Excess of variable cost over revenues	<u>\$ 7,953,000</u>	<u>\$ 7,535,000</u>

Revenues are based on projection included in Exhibit 5 for other than summer months and on the same volume of traffic as in 1965 for the summer period. Variable cost includes the cost of shopping 73 passenger cars in 1966 and 53 passenger cars in 1967. Depreciation and cost of money for the additional diesel units required for the summer operation are included in variable cost on a pro-rata basis for the period in which these units would be used on "The Dominion" only. Labour and material included in variable cost are at the current level of wage rates and prices respectively. No provision was made for possible increases in 1966 or 1967.

2. Assuming discontinuance of present operation at the end of 1965 and operation in 1966 and 1967 from the last week of June to the day following Labour Day only with full passenger consist comparable with that of the summer 1965.

	<u>1966</u>	<u>1967</u>
Revenues	\$ 2,970,000	\$ 2,970,000
Variable cost	<u>7,744,000</u>	<u>7,337,000</u>
Excess of variable cost over revenues	<u>\$ 4,774,000</u>	<u>\$ 4,367,000</u>

The comments made under 1 also apply to the above revenues and variable cost.'

The letter also stated that the Company has no knowledge of railway passenger car equipment being built in Canada or the United States other than the special equipment under consideration in connection with the United States Federal Northeast Corridor Project and that car builders have not built passenger equipment for quite some time. The Company also gave figures of train miles, diesel unit miles, car miles and gross ton miles for the operation described above.

The amount of the annual deficit from any exclusively summer operation will be influenced by the allocation of the cost of heavy repairs. If the train operates only in the summers of 1966 and 1967 and does not operate in any subsequent year, the cost of repairs necessary for the 1966 and 1967 operation must be borne entirely by those two years in determining the deficit; but if the train operates for more than two summers, the cost of the repairs would be spread over a period longer than two years.

A preliminary estimate made by the Board's staff is that a deficit of more than \$3,000,000 each year can reasonably be expected, if the train operates in the summers of 1966 and 1967 (with its 1965 summer consist) and the said heavy repairs to make ready for such operation are borne by these two years. I have no reason to doubt that a summer only operation of "The Dominion" in the next few years will result in yearly deficits in millions of dollars and that the deficits would be even greater if there is such summer operation plus the present operation for the remainder of the year.

However, against the prospective deficits must be considered such real need as there may be for the train in the light of alternative transportation facilities.

The Commissioners who heard the case are agreed that further consideration and additional information are necessary before we can decide whether the train should be operated on a summer basis. Decision on that issue will therefore be reserved pending further consideration."

That completes the four-page extract from the previous Judgment.

In giving consideration to the need of a summer operation of the train the Board computed the average daily revenue passengers by conductors' runs on "The Dominion" from the light winter months beginning in January 1965 and building up to the heavy month of July 1965.

The greatest monthly totals per conductors' runs were between Brandon and Moose Jaw. The daily averages for each month, Brandon - Moose Jaw, eastward and westward were:

	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>
(westward)	71	51	49	79	55	101	370
(eastward)	71	44	44	81	45	68	385

These figures include local traffic, but a major part of the traffic is organized tour carryings, particularly in summer, and other through traffic to or from stations beyond the Brandon - Moose Jaw conductors' run.

Other examples of average daily revenue carryings in the months January to July 1965 on "The Dominion" are set forth next. With the exception of Vancouver - Kamloops eastward, they are for westward travel, which for each of the months without exception had higher monthly totals than eastward travel. They also include organized tour and other through traffic.

	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>
Toronto - Sudbury	64	55	51	81	64	97	181
Ottawa - North Bay	63	58	49	71	56	71	155

	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>
North Bay – Sudbury	43	34	36	50	41	57	141
Chapleau – Fort William	65	49	50	80	58	106	280
Fort William – Winnipeg	51	35	43	77	41	78	246
Medicine Hat – Calgary	52	34	29	56	30	67	301
Calgary – Field	32	21	15	35	16	56	300
Kamloops – Vancouver	53	28	24	50	26	47	272
Vancouver – Kamloops(E)	37	20	19	45	17	61	218

Organized tour traffic constituted a large portion of the passengers on "The Dominion" last summer. In the previous Judgment I cited the evidence given by Mr. Warren that in July there was a total of 3,798 first class through passengers eastbound ex-Vancouver on "The Dominion" and of that number 2,334 were organized tour passengers; that westbound ex-Winnipeg the first class carryings were 4,282, of which 1,557 (1657)* were organized tour passengers; that coach passengers eastbound ex-Vancouver were 2,401, of which 390 were organized tour; and westbound ex-Winnipeg coach passengers were 4,799, of which 297 were organized tour passengers. I also cited Mr. Warren's figures of daily averages of revenue passengers on "The Dominion" last July ex-Vancouver and ex-Winnipeg, exclusive of organized tour and peripheral traffic resulting from organized tours, as follows: eastbound ex-Vancouver 32 first class and 65 coach; westbound ex-Winnipeg 74 first class and 145 coach.

From the information supplied by Mr. Warren, the following daily averages of revenue passengers carried on "The Dominion" in July 1965, segregated in tour and other through passengers, were computed as follows:

	<u>First Class</u>	<u>Coach</u>
Ex-Vancouver eastbound		
– tour	90	13
– other through	32	65
Ex-Winnipeg westbound		
– tour	64	10
– other through	74	145
Ex-Sudbury westbound		
– tour	16	24
– other through	102	94

The statement of monthly carryings by conductors' runs, January – July 1965, is reproduced next.

* Figure in brackets is a corrected figure subsequently given by Mr. Warren.

REVENUE PASSENGERS CARRIED ON "THE DOMINION" BY CONDUCTORS' RUNS

<u>1965</u>	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>
Westward							
Toronto – Sudbury	1998	1531	1572	2417	1990	2921	5612
Montreal – Ottawa	3411	3436	2959	3051	2477	2887	4836
Ottawa – North Bay	1940	1621	1529	2125	1743	2128	4809
North Bay – Sudbury	1336	960	1129	1511	1258	1716	4360
Sudbury – Chapleau	1705	1017	1151	2138	1663	2859	8125
Chapleau – Ft. William	2015	1367	1555	2410	1795	3177	8695
Ft. William – Winnipeg	1592	989	1325	2306	1270	2330	7641
Winnipeg – Brandon	1409	826	818	1551	909	2483	9257
Brandon – Moose Jaw	2203	1422	1531	2378	1703	3023	11460
Moose Jaw – Med. Hat	1626	1037	1019	1713	1330	2436	10273
Med. Hat – Calgary	1600	956	891	1687	925	2001	9337
Calgary – Field	985	583	457	1055	494	1665	9314
Field – Kamloops	1354	661	585	1245	578	1410	8626
Kamloops – Vancouver	1651	787	743	1511	817	1402	8430
TOTAL	24,825	17,193	17,264	27,098	18,952	32,438	110,775

Eastward

Vancouver – Kamloops	1152	555	595	1342	541	1818	6769
Kamloops – Field	989	410	398	1166	392	1313	7124
Field – Calgary	886	393	428	1029	375	1519	8284
Calgary – Med. Hat	1462	774	849	1904	738	1633	8667
Med. Hat – Moose Jaw	1515	666	825	2023	966	1413	9882
Moose Jaw – Brandon	2187	1240	1377	2433	1396	2047	11923
Brandon – Winnipeg	1525	920	809	1646	729	1658	9242
Winnipeg – Ft. William	2066	1288	1562	2272	1544	1880	7027
Ft. William – Chapleau	2405	1373	1546	2363	1760	2297	7243
Chapleau – Sudbury	2281	1201	1238	1935	1328	1839	7012
Sudbury – North Bay	1505	1145	948	1385	991	1226	3777
North Bay – Ottawa	1810	1343	1149	1604	1187	1407	3909
Ottawa – Montreal	1530	1440	1348	1571	1427	1881	3256
Sudbury – Toronto	3330	2285	2164	3035	2247	2503	5340
TOTAL	24,643	15,033	15,236	25,708	15,621	24,434	99,455

The Board sought further information on what alternative accommodation would be available if "The Dominion" did not operate in the summer.

In a letter dated January 21 Canadian Pacific stated that further inquiries were made into what common carrier accommodation will be available for extra passengers if the summer service of "The Dominion" is not operated in 1966 and 1967, the inquiries being directed to the Moose Jaw—Brandon territory which had the highest carryings in July 1965 and also towards local situations of that kind as well as towards accommodation for full transcontinental passenger traffic. The letter also stated that both local and transcontinental services are provided parallel to the Canadian Pacific line by Greyhound Lines of Canada Ltd. and a copy of a letter dated January 20, 1966, signed by Mr. R. L. Borden, President of Greyhound Lines, was forwarded. Canadian Pacific's letter also stated that it is not anticipated that all of the traffic will transfer to Greyhound, as there is unfilled capacity on "The Canadian" and on Canadian National transcontinental trains.

The letter also indicated that Air Canada took delivery on January 7th of the first of 18 DC-9 short-to medium haul aircraft and that the capacity of that company's service will have been increased by next summer by some 15 to 30 per cent; that Canadian Pacific Air Lines has recently ordered three "stretched" DC-8 aircraft for delivery in June, July and September of next year, which will increase the capacity of its transcontinental service by some 45 per cent; and that Transair Ltd. operates a prairie air service with flights between Winnipeg—Brandon (among other points) four days a week, and between Winnipeg—Regina once a week, and that the President of that company recently complained that it had been unable to obtain enough traffic to make the service pay.

As to passengers travelling in organized tours, including the school children being conducted by the Centennial Commission, the letter stated that arrangements have been made for carrying them in various alternative ways, either by "The Canadian", other rail lines or by bus or air, and that none of these tours has had to be turned away because of the projected discontinuance of the summer service of "The Dominion".

The letter from the President of Greyhound Lines states that the Company has analyzed the passenger traffic flow handled by "The Dominion" as reflected in the statement of carryings that has been reproduced previously herein and goes on to state as follows:

"There is no question in our mind that we could readily handle this traffic flow without undue burden and we are fully prepared, willing and able to supply additional services as required to handle such traffic on any and all sections of the route in question. We have currently on order many new buses for the year 1966 and our fleet will be further augmented with new equipment in 1967 to adequately handle the increased passenger traffic that should result because of the Centennial Year and Expo '67.

I might further add that the existing service has never been loaded to capacity and there are presently available passenger seats on each and every schedule in the territory in question and this same condition exists at peak periods of Summer tourist travel."

The Board also secured information from Canadian Pacific as to what provision had been made to accommodate organized tour passengers in 1966 such as were accommodated on "The Dominion" in July 1965. The Company, through Mr. Warren, furnished the following figures based on information provided by tour organizers:

Ex-Vancouver – eastward. A volume of organized tour passengers, based on "The Dominion" July 1965 carryings, is expected to travel in 1966 as follows:

293 on "The Canadian"
735 on Canadian National
1,254 by bus
370 not organized
72 uncertain
<u>2,724</u>

Ex-Winnipeg – westward. A volume of organized tour traffic, based on "The Dominion" July 1965 carryings, is expected to travel in 1966 as follows:

410 on "The Canadian"
153 on Canadian National
408 by bus
75 by air
355 on U.S. lines
357 not organized
196 uncertain
<u>1,954</u>

Ex-Sudbury – westward. A volume of organized tour traffic, based on "The Dominion" July 1965 carryings, is expected to travel in 1966 as follows:

722 on "The Canadian"
7 on Canadian National
29 by bus (return C.N.)
36 by air
144 not organized
95 uncertain
<u>1,033</u>

The expected 1966 carryings on "The Canadian" include Centennial exchange students equal to the 1965 carryings.

Using July 1965 carryings on "The Dominion" as a basis and assuming that if the train does not run in July 1966 there will be some diversion of the carryings to planes and other trains, the Board asked Air Canada and Canadian National Railways to what extent they could carry the following numbers of "Dominion" non-tour passengers if they request accommodation in the summers of 1966 and 1967.

	<u>Daily Average Passengers</u>	
	<u>First Class</u>	<u>Coach</u>
Ex-Vancouver eastbound	32	65
Ex-Winnipeg westbound	74	145
Ex-Montreal westbound	50	50
Ex-Toronto westbound	50	50
Ex-Winnipeg eastbound		
— to Montreal	50	50
— to Toronto	50	50

A senior officer of Air Canada informed the Board's Director of Economics and Accounting that there would be no problem in accommodating the above numbers of passengers in the summers of 1966 and 1967. He said that Air Canada would be adding 5,500 — 6,000 seats per month between Vancouver and Toronto in 1966. This represents an increase in excess of 30% due to the addition of new DC-8 and DC-9 aircraft.

Canadian National is anticipating an increase in its tour traffic during the coming season, and this may represent up to a ten per cent increase over the volume of such traffic handled in 1965.

In so far as non-tour traffic is concerned, Canadian National expects to be in a position to accommodate some of "The Dominion" passengers. The Company could not, however, give assurance that it would be able to accommodate all the estimated passengers ex-Vancouver, Winnipeg, Toronto and Montreal.

In order to decide whether the Board should require "The Dominion" to operate in summer service, I have endeavoured to consider and weigh the arguments pro and con. I think that, to make such an Order, the Board would have to be satisfied that public convenience and necessity and need of the public for the train outweigh the burden of deficit that its operation would entail and such other valid considerations as militate against the resumption of the train.

Admittedly, the situation in recent summers was not one in which patronage of "The Dominion" was negligible or in which it was a stand-by service for days when the weather was inclement or when other preferred means of travel temporarily failed. It was patronized by organized tour and regular passengers. But, in weighing the need for the train in the face of other considerations supporting its discontinuance, there is the fact that bus or air facilities, or both,

are available throughout most of the route of the train and that these modes of travel are also found acceptable by the public. DBS statistics of inter-city travel in Canada in 1964 show percentages of passenger miles as follows: air 5.3%, bus 5.0%, train 4.6%, auto 85.1%.

If "The Dominion" does not operate, there is no doubt that the demand on air and bus services and on "The Canadian" and Canadian National trains will be thereby increased; and that the demand on the whole will be much greater in the summer of 1967 than it was in the summer of 1965, when there were serious difficulties in obtaining train reservations of the kind and on the dates wanted. There will, I am aware, not only be some dislocation, but with it disappointments, annoyances, inconvenience and criticism also.

Non-operation of the train will, in addition to deprivation of its services to passengers and particular communities, make unavailable for students and train crews the employment hitherto available on the train in summer.

There are, on the other hand, considerations that favour non-operation of the train.

There is the substantial cost of repairing passenger cars, and the heavy deficit from operation of the train. These are not controlling considerations, but they are important and must be taken into account and weighed against the extent of need for the train.

There are the alternative public transportation facilities that I have indicated, and a highway system which flanks the route of the train except in parts of northern Ontario.

There are the findings and recommendations of the MacPherson Commission respecting passenger train services.

There is also the restricted motive power situation in which Canadian Pacific finds itself. Whether or not the Company should have foreseen the need for motive power and made provision for it does not change the fact that the Company is hard-pressed for such power to haul grain, potash, sulphur, pulpwood, coal and other commodities dependent on rail services and moving in large volume, as well as other freight traffic.

The resumption of "The Dominion" next summer would withdraw about 20 diesel units, or their equivalent, from freight service. Grain and certain other kinds of freight traffic are dependent upon rail movement and rail motive power, whereas summer travellers, by and large, have options as to how they travel.

So long as "The Dominion" runs it will be patronized, and that situation conceivably could continue for years, with recurring large annual deficits. If it does not run next summer, it should be possible then to see what adjustments the public and transportation media have made because of the absence of the train and to decide whether or not it should be resumed.

There is every reason to believe that Centennial Year will be a year of heavy travel in Canada. It would be imprudent to put passenger equipment of "The Dominion" beyond reach meanwhile. It should be retained by Canadian Pacific so that it can be made ready for operation in 1967 if the experience of 1966 and forecasts for 1967 show that it will be needed. However, I do not think that large amounts of money should be spent in repairing the passenger cars until it is determined that the operation of the train will be necessary.

The situation is one in which a judgment decision is required and in which differing decisions may well be reached, each having a good measure of reasons and circumstances to support it. The commissioners who heard the case have reached differing conclusions.

In my opinion the situation is such that non-operation of "The Dominion" next summer would not be a violation by Canadian Pacific of section 315 of the Railway Act, or, conversely, that s. 315 does not require the operation of the train in the circumstances. Therefore I do not think that the Board would be justified in rejecting the position taken by the Company and ordering it to operate the train next summer.

I would require the Company to keep the passenger equipment of "The Dominion" available against the possibility that it may be needed in 1967. At the end of next summer I would have the passenger situation reviewed to estimate next year's requirements. I would require both railways to endeavour to develop a feasible system to record passenger carryings and requests for reservations for travel on their transcontinental trains in the period June 1st to September 30th of this year, and the requests unfilled, to assist in estimating the need for passenger train service in 1967. The Board will work with the railways to develop such system. An Order in this respect is not deemed necessary.

This Judgment is being issued without awaiting the disposition by the Governor in Council of appeals or petitions against the previous Judgment, because 1) this Supplementary Judgment deals with the same subject matter, and 2) time will be needed for repair of passenger cars if upon such appeals or petitions the Company is ordered to operate "The Dominion" next summer.

Much has been said as to the possibility of the Canadian Pacific Railway Company getting out of the rail passenger service altogether. Such implies discontinuance of "The Canadian". However, from this Judgment no inference should be drawn that, upon similar evidence, I would allow "The Canadian" to be discontinued were the Company to apply for leave to do so. There is a great difference between the reduction in service by discontinuance of "The Dominion" and the complete discontinuance by Canadian Pacific of all its transcontinental passenger train service.

As a resumption of "The Dominion" next summer is not being ordered by the Board, no Order is required.

(sgd.) ROD. KERR

Ottawa, February 7, 1966.

I concur:

(Sgd.) H.H. GRIFFIN

WOODARD, C.

Having given full consideration to all the information made available to the Board regarding alternative methods of handling summer traffic should the "Dominion" not run during the holiday period, I am not satisfied that public convenience and necessity would be met in full by the services provided by buses, air lines or the remaining space available on the "Canadian" or on C.N.R. passenger trains.

In the light of experience over the past few summers, when reservations on trains of both Railways had to be made a considerable time in advance to insure the securing of space desired, I must conclude the following:

(1) That a good segment of the travelling public must prefer train travel to other modes of transportation, when they have been arranging their travel plans so far ahead in order to secure suitable accommodation.

(2) Should this segment of the public be deprived of the facilities of the "Dominion" during the summer season and be required to look elsewhere for transportation, the remaining facilities by rail, air, or highway bus would be overtaxed to a point that would result in much inconvenience, if not a degree of chaos. This demand for rail accommodation, I am convinced, will increase in 1966 and particularly in 1967, Centennial Year.

I cannot lose sight of the fact that, throughout the breadth of Canada, Canadian Pacific to a considerable degree serves areas and cities not served by Canadian National. This is particularly true of the area between Toronto and Winnipeg, and while passenger carryings through this area are lower than in the territory west of Winnipeg, the available space on the "Canadian" would be in my view insufficient for the needs of the public in the area served.

I am in agreement with my colleagues that a summer operation of the "Dominion" would result in a considerable deficit to the Canadian Pacific which would be a continuing deficit should the said service be kept operating year after year.

However, having weighed the prospective deficits against the real need for the train in the light of alternative transportation facilities, I can reach only one conclusion, and that is that public convenience and necessity can best be met by the operation of the "Dominion" during the period of heavy summer tourist travel.

I would, therefore, order Canadian Pacific Railway to operate the "Dominion" on the same or essentially similar schedules as were in effect in 1965, and with full summer consist. This summer schedule to operate the last week in June and continue until after Labour Day in the years 1966 and 1967.

During the periods involved, I would order both Canadian National and Canadian Pacific to keep records of their respective passenger carryings,

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unassigned space and unfilled requests for space. I would further order Canadian Pacific to furnish the Board with statements relating to the revenues and expenses of the "Dominion" operation at the end of each summer season or as soon as possible thereafter.

On the basis of the above information the Board would then review the results of the two summers' operation and estimate the need at that time for a continuing service.

(SGD.) JOHN M. WOODARD

Ottawa, February 7, 1966.

RELATIVEMENT aux trains n°s 3, 4, 13 et 14, appelés le "Dominion", de la compagnie de chemin de fer du Pacifique-Canadien et relativement à des questions connexes.

Dossier n° 27563.479

le 7 février 1966

DEVANT:

ROD. KERR, C.R.

H.H. GRIFFIN

J.M. WOODARD

commissaire en chef

commissaire en chef adjoint

commissaire

JUGEMENT SUPPLÉMENTAIRE

KERR, comm. en chef

Ce jugement supplémentaire traite de deux questions qui ont été mentionnées et remises à plus tard dans le jugement du 7 janvier 1966, savoir: 1) les détails fournis par les chemins de fer Nationaux du Canada sur les demandes de réservation non satisfaites et 2) la question du rétablissement d'un service d'été du "Dominion" comprenant wagons-lits, wagons-restaurants et voitures ordinaires.

RÉSERVATIONS

Les chemins de fer Nationaux ont maintenant fourni les détails relatifs aux demandes de réservation non satisfaites. Dans la lettre qui accompagnait les détails exposés ci-après, le chemin de fer déclarait, entre autres choses, ce qui suit:

"En ce qui a trait à la question des demandes de réservation que nous ne pouvons satisfaire, je me reporte particulièrement aux remarques du deuxième paragraphe de notre lettre du 19 août. On m'a informé qu'en ce qui nous concerne, les cas où nous ne pouvons pas offrir des places réservées quelconques à tous ceux qui demandent des réservations sont très rares. Assurément, il arrive que nous ne puissions pas donner exactement ce qui est demandé mais nous sommes toujours en mesure d'offrir autre chose de raisonnablement équivalent, ce qui est accepté dans la plupart des cas.

La Commission a déjà mentionné qu'elle aimerait que soit fait un relevé indiquant dans quelle mesure nous sommes incapables de satisfaire les demandes de réservation que nous recevons. Un tel relevé a été tenu et des états joints aux présentes donnent une comparaison des demandes de place que nous sommes censés n'avoir pu satisfaire et du nombre de places qui étaient réellement disponibles dans les trains lorsque ceux-ci ont quitté la gare mentionnée. Je désire souligner de nouveau que les chiffres concernant les demandes non satisfaites sont fallacieux pour une bonne part parce que, à notre avis, ils ne représentent pas la véritable situation. Nous sommes convaincus qu'à peu près toutes les personnes dont les noms ont été placés sur les listes d'attente ont obtenu des places soit dans un autre train soit à une autre date, etc. Cela arrive très souvent sans que l'intéressé mentionne que son nom est sur une liste d'attente. Par conséquent, le nom demeure sur cette liste. Nous croyons que cette thèse est appuyée par la comparaison des chiffres de la liste d'attente et de ceux qui concernent les places disponibles. Nous admettons toutefois qu'il y a des circonstances où des voyageurs doivent se contenter de places autres que celles qu'ils voulaient."

<u>Date</u>	Train n° 1 à partir de Montréal		Train n° 9 à partir de Montréal	
	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>
1 ^{er} août	21	41	21	8
3	29	39	29	5
5	11	40	11	7
7	14	34	14	7
9	12	37	12	14
11	21	24	21	10
13	11	28	11	7
15	6	29	6	10
17	12	32	12	11
19	22	28	22	4
21	7	28	7	10
23	9	30	9	6
25	12	20	12	14
27	5	22	5	8
29	8	76	8	13
31	6	14	6	7

Train n° 51 à partir de Toronto			Train n° 109 à partir de Toronto	
Date	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>
1 ^{er} août	23	29	1	11
3	14	16	3	2
5	7	21	5	12
7	15	25	22	Néant
9	17	44	3	8
11	9	31	5	18
13	13	21	15	8
15	4	36	17	9
17	27	23	12	5
19	6	24	8	11
21	21	24	1	11
23	23	38	22	7
25	8	49	1	4
27	12	33	3	17
29	10	43	5	7
31	10	47	10	11

Train n° 2 à partir de Vancouver			Train n° 52 à partir de Vancouver	
Date	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>
1 ^{er} août	3	3	3	9
3	3	10	10	13
5	6	6	11	18
7	1	14	1	13
9	1	6	6	13
11	Néant	9	12	48
13	1	23	3	15
15	3	17	2	10
17	1	18	5	12
19	5	12	7	5
21	3	19	2	15
23	Néant	6	Néant	13
25	9	Néant	2	19
27	6	9	3	11
29	4	5	1	37
31	2	21	6	14

**Train n° 10 à partir
de Vancouver**

<u>Date</u>	<u>Demandes non satisfaites</u>	<u>Places disponibles</u>
1 ^{er}	Néant	10
3	7	9
5	Néant	6
7	1	12
9	2	11
11	3	7
13	Néant	13
15	2	10
17	1	4
19	2	8
21	1	15
23	2	6
25	7	8
27	1	5
29	Néant	10
31	3	5

SERVICES D'ÉTÉ DU "DOMINION"

Relativement au service d'été du "Dominion", je donne de nouveau les pages 75, 76, 77 et 78 du jugement antérieur qui traitent de ce sujet:

"Reste la question de l'exploitation d'été, soit pendant les deux mois et demi ou à peu près qui constituent la principale saison des voyages de vacances au Canada. C'est la période qui commence vers l'époque à laquelle les étudiants finissent leur année d'études, en juin, et qui se termine un peu après la fête du Travail, en septembre.

Les chiffres présentés par la compagnie dans la pièce 4 montrent que les recettes-voyageurs du "Dominion" se sont élevées à \$477,273 en juin 1964, à \$1,313,613 en juillet, à \$1,261,181 en août et à \$355,260 en septembre; et pour 1965, à \$368,261 en juin et à \$1,376,268 en juillet.

J'ai mentionné les dépositions concernant les voyageurs transportés sur le "Dominion" en juillet 1965, à partir de Vancouver et à partir de Winnipeg à un moment où le "Canadian" était utilisé presque à capacité et que l'espace réservé était vendu bien à l'avance et où il était difficile d'obtenir des réservations. Le Pacifique-Canadien a dit que le trafic d'été du "Dominion" consistait en grande partie en trafic touristique venant des États-Unis, qu'il avait sollicité ce trafic de façon agressive au cours des

années passées mais qu'il ne le solliciterait pas à l'avenir. Cependant, il se fait une grande publicité par laquelle on invite les touristes à visiter le Canada. C'est un trafic que le Canada recherche et qui est profitable à son économie. L'année prochaine sera l'année du Centenaire qui verra la tenue de l'Exposition universelle à Montréal et d'autres attractions ailleurs. Des touristes voudront venir. Le nombre des voyages accomplis au Canada par les Canadiens devrait également augmenter chaque année dans un avenir prévisible à mesure que la population augmente. Les voyages par avion à travers le Canada deviennent plus à la portée du public et les installations pour ce genre de voyages augmentent; nombre de personnes voyagent par autobus; et il y a l'automobile privée. Cependant, beaucoup ne peuvent ou ne veulent pas voyager par avion, autobus ou automobile privée et préfèrent voyager par chemin de fer, particulièrement pour les grandes distances qu'on rencontre au Canada.

Le Pacifique-Canadien a dit, dans ses dépositions aux audiences, qu'il sera nécessaire de faire de grosses réparations en 1966 à 74 voitures Tuscan Red, si le "Dominion" doit avoir une composition de 17 voitures durant l'été, soit une composition semblable à celle de l'été 1965, et que le coût de la mise en état d'exploitation de ces 74 voitures s'élèvera à \$1,385,000. La compagnie a déterminé que les voitures nécessaires à la composition d'un train de 17 voitures comprennent 137 voitures de divers types et 13 voitures de réserve. Elle a dit qu'en plus de ces dépenses et du coût de l'exploitation du train il y aurait les réparations courantes au montant de \$789,000, de sorte que le coût total des réparations des voitures pour 1966 serait de \$2,174,000, sans comprendre certains petits éléments de dépense, et qu'au cours des années subséquentes les 66 voitures Tuscan Red qui restent auraient besoin de grosses réparations, de même que les 5 voitures Park et les 5 voitures ordinaires Skyline. Il a été déclaré que de grosses réparations sont nécessaires à intervalles d'environ cinq ans, qu'entre les grosses réparations, de légères réparations sont effectuées après trois ans et que le coût des réparations légères varie de \$5,000 pour un fourgon à bagages à \$7,500 pour un wagon-restaurant.

Je ne conteste pas le fait que les voitures de type plus ancien utilisées par le "Dominion" devront être réparées et utilisées de nouveau si le train répète son exploitation de l'été de 1965 et que ces réparations entraîneront des dépenses considérables.

Cependant, le Pacifique-Canadien n'a pas fait, aux audiences, de dépositions sur les recettes et les dépenses à prévoir si le "Dominion" était exploité pendant les étés de 1966 et de 1967 de la façon dont il l'a été pendant l'été de 1965. Par conséquent, la Commission a demandé la présentation de ces chiffres et a discuté un peu cette question avec M. Nepveu.

Dans une lettre datée du 24 décembre 1965, le Pacifique-Canadien a déclaré, entre autres choses, ce qui suit:

- "1. A supposer que le "Dominion" continue à être exploité en 1966 et en 1967 comme il l'est actuellement, sauf pendant la période d'été allant de la dernière semaine de juin au lendemain de la fête du Travail alors qu'il aurait une composition complète comparable à celle de l'été de 1965.

	<u>1966</u>	<u>1967</u>
Recettes	\$ 5,009,000	\$ 5,009,000
Frais variables	<u>12,962,000</u>	<u>12,544,000</u>
Excédent des frais variables sur les recettes	<u>\$ 7,953,000</u>	<u>\$ 7,535,000</u>

Les recettes sont fondées sur la projection comprise dans la pièce 5 pour les mois autres que les mois d'été et sur le même volume de trafic qu'en 1965 pour la période d'été. Les frais variables comprennent le coût des réparations à l'atelier de 73 voitures en 1966 et de 53 voitures en 1967. L'amortissement et le coût de l'argent relatifs aux unités diesel supplémentaires nécessaires à l'exploitation d'été sont compris dans les frais variables et calculés sur une base proportionnelle pour la période pendant laquelle ces unités seraient utilisées sur le "Dominion" seulement. Le coût de la main-d'œuvre et des matériaux compris dans les frais variables a été calculé aux prix courants de la main-d'œuvre et des matériaux. Aucune provision n'a été faite pour une augmentation possible des prix en 1966 ou en 1967.

2. A supposer que le Dominion cesse, à la fin de 1965, d'être exploité comme il l'est actuellement et qu'en 1966 et en 1967 il soit exploité de la dernière semaine de juin jusqu'au lendemain de la fête du Travail seulement, avec une composition complète comparable à celle de l'été de 1965.

	<u>1966</u>	<u>1967</u>
Recettes	\$ 2,970,000	\$ 2,970,000
Frais variables	<u>7,744,000</u>	<u>7,337,000</u>
Excédent des frais variables sur les recettes	<u>\$ 4,774,000</u>	<u>\$ 4,367,000</u>

Les remarques faites au paragraphe 1 s'appliquent aussi aux recettes et aux frais variables donnés ci-dessus."

La compagnie affirme aussi dans sa lettre qu'à sa connaissance, ni au Canada ni aux États-Unis, il ne se construit de wagons à voyageurs autres que les voitures spéciales qui sont à l'étude relativement au United States Federal Northeast Corridor Project et que les constructeurs de wagons n'ont pas construit de wagons à voyageurs depuis assez longtemps. La compagnie a également fourni des chiffres sur le nombre de trains-milles, d'unités diesel-milles, de wagons-milles et de tonnes-milles brutes pour les exploitations décrites ci-dessus.

Le montant du déficit annuel résultant d'une exploitation d'été seulement dépendra de l'allocation de coût des grosses réparations. Si le train est exploité pendant les seuls étés de 1966 et 1967 et qu'il n'est pas exploité par la suite, le coût des réparations nécessaires pour l'exploitation pendant 1966 et 1967 devra être imputé entièrement sur ces deux années dans la détermination du déficit; mais, si le train est exploité pendant plus de deux étés, le coût des réparations serait réparti sur une période de plus de deux ans.

Selon une estimation préliminaire faite par le personnel de la Commission, il y a raisonnablement lieu de s'attendre à un déficit de plus de 3 millions de dollars chaque année si le train est exploité pendant les étés de 1966 et de 1967 (dans sa composition de l'été de 1965) et si le coût desdites grosses réparations faites en préparation de cette exploitation ne sont réparties que sur ces deux années. Je n'ai aucun doute que l'exploitation du "Dominion" pendant l'été seulement au cours des prochaines années entraînerait des déficits s'élevant à des millions de dollars et que ces déficits seraient encore plus élevés si le train était exploité pendant le reste de l'année en plus de l'être durant l'été.

Cependant, à l'encontre des déficits en perspective, il faut tenir compte de la nécessité réelle de ce service, compte tenu des autres moyens de transport.

Les commissaires qui ont entendu la cause sont convenus qu'il nous faut en faire une étude plus approfondie et obtenir des renseignements supplémentaires avant de pouvoir décider si le train devrait être exploité en été. La décision à ce sujet sera par conséquent réservée en attendant une étude plus approfondie." (Fin de l'extrait du jugement antérieur.)

En étudiant le besoin d'un service d'été du train, la Commission a calculé la moyenne quotidienne des voyageurs payants par parcours de chef de train du "Dominion" à partir des mois de faible trafic commençant en janvier 1965 et au cours des mois où le trafic va augmentant jusqu'au mois de juillet 1965 durant lequel le trafic a été très important.

Les plus grands totaux mensuels par parcours de chef de train ont été obtenus pour le trajet entre Brandon et Moose Jaw. Les moyennes mensuelles pour chaque

mois, entre Brandon et Moose Jaw, en direction est et en direction ouest, ont été les suivantes:

	<u>Janv.</u>	<u>Fév.</u>	<u>Mars</u>	<u>Avril</u>	<u>Mai</u>	<u>Juin</u>	<u>Juillet</u>
(vers l'ouest)	71	51	49	79	55	101	370
(vers l'est)	71	44	44	81	45	68	385

Ces chiffres comprennent le trafic local mais une très grande partie du trafic est composée de voyageurs de voyages organisés, surtout durant l'été, et d'autres voyageurs directs en provenance ou à destination de gares situées au delà du parcours de chef de train entre Brandon et Moose Jaw.

D'autres exemples de moyennes quotidiennes de voyageurs payants du "Dominion" sont donnés ci-après. A l'exception du parcours de Vancouver à Kamloops qui est en direction de l'est, tous ces parcours sont en direction de l'ouest et pour chacun des mois, sans exception, les parcours vers l'ouest ont donné des totaux mensuels plus élevés que les parcours vers l'est. Ces chiffres comprennent aussi les voyageurs des voyages organisés et d'autres voyageurs directs.

	<u>Jan.</u>	<u>Fév.</u>	<u>Mars</u>	<u>Avril</u>	<u>Mai</u>	<u>Juin</u>	<u>Juillet</u>
Toronto – Sudbury	64	55	51	81	64	97	181
Ottawa – North Bay	63	58	49	71	56	71	155
North Bay – Sudbury	43	34	36	50	41	57	141
Chapleau – Fort William	65	49	50	80	58	106	280
Fort William – Winnipeg	51	35	43	77	41	78	246
Medicine Hat – Calgary	52	34	29	56	30	67	301
Calgary – Field	32	21	15	35	16	56	300
Kamloops – Vancouver	53	28	24	50	26	47	272
Vancouver – Kamloops (E)	37	20	19	45	17	61	218

Les voyageurs de voyages organisés ont constitué une grande partie du trafic du "Dominion" l'été dernier. Dans le jugement antérieur, j'ai cité la déposition de M. Warren suivant laquelle, en juillet 1965, le "Dominion" a transporté en première classe un total de 3,798 voyageurs directs partis de Vancouver à destination de l'est et, sur ce nombre, 2,334 étaient des voyageurs de voyages organisés; de Winnipeg, en direction ouest, ce train a transporté 4,282 voyageurs en première classe, dont 1,557 (1,657)* étaient des voyageurs de voyages organisés; les voyageurs en voiture ordinaire partis de Vancouver à destination de l'est ont été au nombre de 2,401 dont 390 étaient des voyageurs de voyages organisés et les voyageurs en voiture ordinaire partis de Winnipeg

* Le chiffre entre parenthèses est un chiffre corrigé donné subséquemment par M. Warren.

en direction de l'ouest ont été au nombre de 4,799, dont 297 étaient des voyageurs de voyages organisés. J'ai aussi cité les chiffres donnés par M. Warren en ce qui concerne les moyennes quotidiennes du nombre de voyageurs payants du "Dominion", en juillet dernier, à partir de Vancouver et à partir de Winnipeg, déduction faite des voyageurs des voyages organisés et du trafic périphérique qui résulte de ces voyages; ces chiffres sont les suivants; à destination de l'est, partis de Vancouver, 32 en première classe et 65 en voiture ordinaire; à destination de l'ouest, partis de Winnipeg, 74 en première classe et 145 en voiture ordinaire.

A partir des renseignements fournis par M. Warren, on a calculé les moyennes quotidiennes du nombre de voyageurs payants transportés par le "Dominion" en juillet 1965, répartis en voyageurs de voyages organisés et autres voyageurs directs; ces moyennes sont les suivantes:

	<u>Première classe</u>	<u>Voiture ordinaire</u>
A partir de Vancouver, vers l'est		
– voyages organisés	90	13
– autres voyageurs directs	32	65
A partir de Winnipeg, vers l'ouest		
– voyages organisés	64	10
– autres voyageurs directs	74	145
A partir de Sudbury, vers l'ouest		
– voyages organisés	16	24
– autres voyageurs directs	102	94

Suit un état des voyageurs transportés chaque mois, par parcours de chef de train, de janvier à juillet 1965.

VOYAGEURS PAYANTS TRANSPORTÉS PAR LE "DOMINION" PAR PARCOURS DE CHEF DE TRAIN

<u>1965</u>	<u>Janv.</u>	<u>Fév.</u>	<u>Mars</u>	<u>Avril</u>	<u>Mai</u>	<u>Juin</u>	<u>Juillet</u>
Vers l'ouest							
Toronto – Sudbury	1998	1531	1572	2417	1990	2921	5612
Montréal – Ottawa	3411	3436	2959	3051	2477	2887	4836
Ottawa – North Bay	1940	1621	1529	2125	1743	2128	4809
North Bay – Sudbury	1336	960	1129	1511	1258	1716	4360
Sudbury – Chapleau	1705	1017	1151	2138	1663	2859	8125
Chapleau – Ft. William	2015	1367	1555	2410	1795	3177	8695
Ft. William – Winnipeg	1592	989	1325	2306	1270	2330	7641

<u>1965</u>	<u>Janv.</u>	<u>Fév.</u>	<u>Mars</u>	<u>Avril</u>	<u>Mai</u>	<u>Juin</u>	<u>Juillet</u>
Vers l'ouest (fin)							
Winnipeg – Brandon	1409	826	818	1551	909	2483	9257
Brandon – Moose Jaw	2203	1422	1531	2378	1703	3023	11460
Moose Jaw – Med. Hat	1626	1037	1019	1713	1330	2436	10273
Med. Hat – Calgary	1600	956	891	1687	925	2001	9337
Calgary – Field	985	583	457	1055	494	1665	9314
Field – Kamloops	1354	661	585	1245	578	1410	8626
Kamloops – Vancouver	1651	787	743	1511	817	1402	8430
TOTAL	24,825	17,193	17,264	27,098	18,952	32,438	110,775

<u>1965</u>	<u>Janv.</u>	<u>Fév.</u>	<u>Mars</u>	<u>Avril</u>	<u>Mai</u>	<u>Juin</u>	<u>Juillet</u>
Vers l'est							
Vancouver – Kamloops	1152	555	595	1342	541	1818	6769
Kamloops – Field	989	410	398	1166	392	1313	7124
Field – Calgary	886	393	428	1029	375	1519	8284
Calgary – Med. Hat	1462	774	849	1904	738	1633	8667
Med. Hat – Moose Jaw	1515	666	825	2023	966	1413	9882
Moose Jaw – Brandon	2187	1240	1377	2433	1396	2047	11923
Brandon – Winnipeg	1525	920	809	1646	729	1658	9242
Winnipeg – Ft. William	2066	1288	1562	2272	1544	1880	7027
Ft. William – Chapleau	2405	1373	1546	2363	1760	2297	7243
Chapleau – Sudbury	2281	1201	1238	1935	1328	1839	7012
Sudbury – North Bay	1505	1145	948	1385	991	1226	3777
North Bay – Ottawa	1810	1343	1149	1604	1187	1407	3909
Ottawa – Montréal	1530	1440	1348	1571	1427	1881	3256
Sudbury – Toronto	3330	2285	2164	3035	2247	2503	5340
TOTAL	24,643	15,033	15,236	25,708	15,621	24,434	99,455

La Commission a demandé des renseignements supplémentaires sur les autres moyens de transport qui seraient disponibles si le "Dominion" ne circulait pas en été.

Dans une lettre datée du 21 janvier, le Pacifique-Canadien a déclaré que de nouvelles enquêtes ont été faites en vue d'établir quels autres moyens de transport en commun seraient disponibles pour les voyageurs supplémentaires si le service d'été du "Dominion" n'était pas exploité en 1966 ni en 1967, ces enquêtes ayant porté sur le parcours entre Moose Jaw et Brandon, qui a compté le plus grand nombre de voyageurs en juillet 1965, et sur les problèmes locaux

de ce genre ainsi que sur la question du transport du trafic transcontinental. Le Pacifique-Canadien déclarait aussi dans cette lettre que des services parallèles à ceux de la compagnie, tant locaux que transcontinentaux, sont assurés par les Greyhound Lines of Canada Ltd. et joignait une copie d'une lettre du 20 janvier 1966 signée par M. R.L. Borden, président des Greyhound Lines. Le Pacifique-Canadien a aussi déclaré qu'il ne s'attend pas que tout le trafic passe aux Greyhound Lines vu que le "Canadian" et les trains transcontinentaux des chemins de fer Nationaux du Canada ne sont pas utilisés à pleine capacité.

La lettre mentionnait en outre que, le 7 janvier, Air Canada a pris livraison de la première unité d'une commande de 18 avions DC-9, pour courtes et moyennes distances, et que la capacité de service de cette compagnie se trouvera accrue de 15 à 30 p. 100 l'été prochain; que les Canadian Pacific Air Lines ont récemment commandé trois DC-8 plus longs qui seront livrés en juin, juillet et septembre de l'an prochain, ce qui augmentera de quelque 45 p. 100 la capacité de leur service transcontinental; et que Transair Ltd. exploite, dans les Prairies, un service aérien comprenant des vols entre Winnipeg et Brandon (entre autres points) quatre fois par semaine, et entre Winnipeg et Regina une fois par semaine, et que le président de cette compagnie s'est plaint, il y a quelque temps, de n'avoir pas suffisamment de trafic pour rendre le service rentable.

Quant aux voyageurs des voyages organisés, y compris les groupes d'écoliers accompagnés prévus par la Commission du Centenaire, la lettre déclarait que des arrangements sont faits en vue de leur transport par plusieurs moyens différents, soit le "Canadian", d'autres services ferroviaires, des services d'autobus ou des services aériens et qu'aucun de ces voyages n'a dû être annulé par suite du projet d'abandon du service d'été du "Dominion".

Le président des Greyhound Lines déclare dans sa lettre que la compagnie a analysé le nombre de voyageurs transportés par le "Dominion" indiqué dans l'état du trafic-voyageurs reproduit plus haut dans les présentes et il dit ce qui suit:

"Pour nous, il ne fait aucun doute que nous pourrions facilement transporter ce trafic et nous sommes entièrement préparés, disposés et aptes à fournir les services supplémentaires à cette fin sur n'importe quelle partie et sur toutes les parties de la route en question. Nous avons commandé plusieurs nouveaux autobus pour 1966 et notre flotte s'augmentera encore de matériel nouveau en 1967 pour faire face à l'augmentation du nombre des voyageurs qui devrait résulter de la célébration de l'année du Centenaire et de la tenue de l'Exposition universelle.

Je pourrais en outre ajouter que le service actuel n'a jamais été utilisé à pleine capacité et qu'il y a présentement des sièges inoccupés dans nos trains à chaque voyage dans le territoire en question et que cette situation existe aussi en périodes de pointe durant la saison de voyages de touristes de l'été."

La Commission a aussi obtenu des renseignements du Pacifique-Canadien sur les dispositions prises en vue du transport, en 1966, des voyageurs des voyages organisés comme ceux qui ont été transportés par le "Dominion" en juillet 1965. La compagnie, par l'entremise de M. Warren, a fourni les chiffres suivants fondés sur les renseignements donnés par les organisateurs de ces voyages:

A partir de Vancouver, vers l'est. — D'après le nombre de voyageurs transportés par le "Dominion" en juillet 1965, on s'attend que le nombre de voyageurs de voyages organisés en 1966 sera comme il suit:

293 par le "Canadian"
735 par le National-Canadien
1,254 par autobus
370 indépendants des voyages organisés
72 incertains
<u>2,724</u>

A partir de Winnipeg, vers l'ouest. — D'après le nombre de voyageurs transportés par le "Dominion" en juillet 1965, on s'attend que le nombre de voyageurs de voyages organisés en 1966 sera comme il suit:

410 par le "Canadian"
153 par le National-Canadien
408 par autobus
75 par air
355 par les lignes des États-Unis
357 indépendants des voyages organisés
196 incertains
<u>1,954</u>

A partir de Sudbury, vers l'ouest. — D'après le nombre de voyageurs transportés par le "Dominion" en juillet 1965, on s'attend que le nombre de voyageurs de voyages organisés en 1966 sera comme il suit:

722 par le "Canadian"
7 par le National-Canadien
29 par autobus (et retour par le N.-C.)
36 par air
144 indépendants des voyages organisés
95 incertains
<u>1,033</u>

Le nombre de voyageurs du "Canadian" prévu pour 1966 comprend les voyageurs du programme d'échange d'étudiants dans le cadre du Centenaire, dont on estime le nombre égal à celui de 1965.

En se fondant sur le nombre de voyageurs transportés par le "Dominion" en juillet 1965 et en supposant que si le train ne circule pas en juillet 1966, un certain nombre de ces voyageurs prendront l'avion ou d'autres trains, la Commission a demandé à Air Canada et aux chemins de fer Nationaux du Canada quelle proportion ils pourraient transporter des nombres ci-après donnés des voyageurs du "Dominion" voyageant indépendamment des voyages organisés s'ils s'adressent à eux durant les étés de 1966 et de 1967.

	<u>Moyenne quotidienne de voyageurs</u>	
	<u>Première classe</u>	<u>Voiture ordinaire</u>
A partir de Vancouver, vers l'est	32	65
A partir de Winnipeg, vers l'ouest	74	145
A partir de Montréal, vers l'ouest	50	50
A partir de Toronto, vers l'ouest	50	50
A partir de Winnipeg, vers l'est		
— à destination de Montréal	50	50
— à destination de Toronto	50	50

Un fonctionnaire supérieur d'Air Canada a informé le Directeur de l'Économie et de la Comptabilité de la Commission que le transport des nombres de voyageurs donnés ci-dessus durant les étés de 1966 et de 1967 ne présentait aucun problème pour la compagnie. Il a déclaré que, en 1966, Air Canada ajoutera de 5,500 à 6,000 places par mois à ses services entre Vancouver et Toronto. Cela représente une augmentation de plus de 30 p. 100 découlant de l'acquisition de nouveaux DC-8 et DC-9.

Les chemins de fer Nationaux du Canada prévoient une augmentation du nombre des voyageurs des voyages organisés pour la prochaine saison, augmentation qui pourrait aller jusqu'à 10 p. 100 par rapport au trafic de ce genre transporté en 1965.

En ce qui concerne les voyageurs indépendants des voyages organisés, les chemins de fer Nationaux du Canada espèrent être en mesure de transporter une partie des voyageurs du "Dominion". Toutefois, la compagnie n'a pas voulu assurer qu'elle pourrait transporter le nombre total estimatif des voyageurs partant de Vancouver, de Winnipeg, de Toronto et de Montréal.

Avant de décider si la Commission doit ordonner l'exploitation d'été du "Dominion", j'ai essayé d'étudier et de peser le pour et le contre. Je crois qu'avant de rendre une ordonnance à cet effet, la Commission doit être convaincue que le besoin que le public a de ce train et la commodité et la nécessité

de ce train pour le public l'emportent sur le fardeau du déficit que son exploitation imposerait à la compagnie et sur les autres raisons valables qui plaident contre le rétablissement de ce train.

Il est certain que le nombre des voyageurs du "Dominion" au cours des derniers étés n'a pas été négligeable et que ce train n'a pas été un service de réserve pour les jours de mauvais temps ou pour les cas où les autres moyens de transport faisaient défaut. Ce train a été utilisé par des voyageurs de voyages organisés et par des voyageurs réguliers. Mais lorsque l'on compare le besoin de ce train et les raisons qui plaident en faveur de sa discontinuation, il faut tenir compte du fait que des services de transport par autobus ou par avion, ou les deux, sont disponibles sur la plus grande partie de la route du train et que ces moyens de transport sont aussi jugés acceptables par le public. Les chiffres du Bureau fédéral de la statistique indiquent qu'en 1964, au Canada, le pourcentage des passagers-milles interurbains pour les différents moyens de transport s'établissait comme il suit: air 5.3 p. 100, autobus 5 p. 100, train 4.6 p. 100, automobile 85.1 p. 100.

Si le "Dominion" ne circule pas, il ne fait aucun doute que la demande de services aériens et d'autobus et la demande de places dans le "Canadian" et dans les trains des chemins de fer Nationaux du Canada augmentera en conséquence; et la demande, dans son ensemble, sera beaucoup plus grande durant l'été de 1967 qu'elle ne l'a été durant l'été de 1965, alors qu'il était déjà très difficile d'obtenir des réservations du genre désiré et pour les dates désirées. Je me rends bien compte qu'il y aura non seulement quelque désorganisation mais des déceptions, des ennuis, des inconvénients et aussi des critiques.

L'abandon du train, en plus de priver des voyageurs et certaines agglomérations de ses services, fera disparaître les emplois d'été que ce train offrait aux étudiants et au personnel de train.

En revanche, il y a des raisons qui plaident en faveur de la discontinuation de l'exploitation de ce train.

Il y a les sommes importantes que coûterait la réparation des voitures de voyageurs et le lourd déficit d'exploitation du train. Ce ne sont pas des raisons déterminantes mais elles sont importantes et il faut en tenir compte et les mettre en comparaison avec le degré de nécessité du train.

Il y a les autres moyens de transport publics que j'ai mentionnés et les routes qui longent le parcours du train sauf dans certaines parties du nord de l'Ontario.

Il y a les conclusions et les recommandations de la Commission MacPherson concernant les services de trains de voyageurs.

Il y a aussi la situation dans laquelle se trouve le Pacifique-Canadien par suite de l'insuffisance du nombre de ses locomotives. Qu'on soit d'avis ou non

que la compagnie aurait dû prévoir le besoin de locomotives supplémentaires et prendre des mesures en conséquence ne change rien au fait qu'elle a besoin de ses locomotives pour le transport du grain, de la potasse, du soufre, du bois à pâte, du charbon et d'autres denrées dont le transport dépend des services ferroviaires et qui doivent être transportées en grande quantités, ainsi que pour d'autre trafic-marchandises.

Le rétablissement du service du "Dominion" l'été prochain enlèverait au service des marchandises environ 20 locomotives diesel, ou l'équivalent. Le transport du grain et de certains autres genres de marchandises dépend des services ferroviaires et du matériel de traction ferroviaire, tandis que les voyageurs d'été, à tout prendre, peuvent choisir entre plusieurs moyens de transport.

Tant que le "Dominion" circulera, il aura des voyageurs et il est probable que cette situation pourrait se prolonger pendant des années entraînant régulièrement de gros déficits annuels. Si le "Dominion" ne circule pas l'été prochain, il sera possible de constater quels ajustements auront été faits en ce qui concerne le public et les moyens de transport pour compenser l'absence du train, et de décider si oui ou non le service doit être rétabli.

Il y a tout lieu de croire que durant l'année du Centenaire, on voyagera beaucoup au Canada. Il serait imprudent, en attendant, de mettre hors de portée le matériel de service de voyageurs du "Dominion". Le Pacifique-Canadien devra conserver ce matériel de façon qu'il puisse être mis en état de service pour 1967 si l'expérience de 1966 et les prévisions pour 1967 indiquent qu'il sera nécessaire. Toutefois, je ne crois pas qu'il faudrait consacrer de fortes sommes à la réparation des voitures de voyageurs avant qu'il ne soit certain que l'exploitation du train sera nécessaire.

La situation actuelle est telle que la décision à prendre exige du jugement et telle qu'elle pourrait donner lieu à des décisions différentes dont chacune pourrait s'appuyer sur plusieurs bonnes raisons. Les commissaires qui ont entendu la cause en sont arrivés à des conclusions différentes.

A mon avis, la situation est telle que si le "Dominion" n'était pas exploité l'été prochain, cela ne constituerait pas une violation par le Pacifique-Canadien de l'article 315 de la Loi sur les chemins de fer ou, ce qui revient au même, l'article 315 n'exige pas l'exploitation du train dans les circonstances. Par conséquent, je ne crois pas que la Commission serait justifiée à rejeter la position adoptée par la compagnie et à lui ordonner d'exploiter le train l'été prochain.

J'ordonnerais à la compagnie de tenir disponible le matériel de service de voyageurs du "Dominion" au cas où il serait nécessaire en 1967. Je ferais faire un nouvel examen de la situation concernant les voyageurs à la fin de l'été prochain en vue d'estimer les besoins de l'an prochain. Je demanderais aux

deux chemins de fer d'essayer de mettre au point un système applicable permettant de tenir le relevé des voyageurs transportés et des demandes de réservation dans leurs trains transcontinentaux durant la période allant du 1^{er} juin au 30 septembre de la présente année ainsi que des demandes de réservation non satisfaites, afin d'aider à l'estimation des besoins en matière de services de trains de voyageurs en 1967. La Commission travaillera avec les chemins de fer à la mise au point d'un tel système. Une ordonnance à ce sujet n'est pas jugée nécessaire.

Ce jugement est rendu sans attendre que le gouverneur en conseil ait disposé des appels et pétitions à l'encontre du premier jugement, parce que 1) le présent jugement supplémentaire porte sur la même question et 2) il faudra du temps pour la réparation des voitures de voyageurs si, à la suite de ces appels et pétitions, la compagnie reçoit l'ordre d'exploiter le "Dominion" l'été prochain.

On a beaucoup parlé de la possibilité que la compagnie de chemin de fer du Pacifique-Canadien abandonne entièrement les services ferroviaires de voyageurs. Cela implique la discontinuation du service du "Canadian". Toutefois, il ne faut pas déduire du présent jugement qu'à la suite d'une preuve semblable, j'autoriserais l'abandon du "Canadian", advenant que la compagnie le demanderait. Il y a une grande différence entre la réduction de service que comporte l'abandon du "Dominion" et l'abandon total par le Pacifique-Canadien de tous ses trains transcontinentaux de voyageurs.

Vu que le rétablissement du service du "Dominion" l'été prochain n'est pas ordonné, il n'y a pas lieu de rendre une ordonnance.

ROD. KERR

Ottawa, le 7 février 1966.

J'agréé:

H.H. GRIFFIN

C. WOODARD

Après avoir bien étudié tous les renseignements qui ont été communiqués à la Commission au sujet des autres moyens de transport dont pourrait disposer le trafic d'été si le "Dominion" ne circulait pas durant la période des vacances, je ne suis pas convaincu que les services assurés par les autobus et les lignes aériennes et l'espace restant disponible dans le "Canadian" ou dans les trains de voyageurs des chemins de fer Nationaux du Canada seraient suffisants pour la commodité et les besoins du public.

Compte tenu de l'expérience des quelques derniers étés, alors que les réservations dans les trains des deux chemins de fer devaient être faites très longtemps à l'avance si l'on voulait obtenir l'espace désiré, je dois conclure

(1) qu'une bonne partie du public voyageur doit préférer voyager par train plutôt que par d'autres moyens de transport, puisque ses plans de voyage sont faits si longtemps à l'avance en vue d'obtenir les places désirées;

(2) que, si cette partie du public est privée du service du "Dominion" durant la saison d'été et doit s'adresser à d'autres moyens de transport, l'espace restant disponible dans les trains, les avions ou les autobus sera l'objet de tant de demandes qu'il en résultera beaucoup d'inconvénients, sinon une sorte de chaos. La demande de service ferroviaire, à mon avis, augmentera en 1966 et particulièrement en 1967, année du Centenaire.

Je ne peux pas perdre de vue le fait que, sur toute la largeur du Canada, le Pacifique-Canadien dessert dans une large mesure des régions et des villes qui ne sont pas desservies par les chemins de fer Nationaux du Canada. Il en est ainsi particulièrement dans la région entre Toronto et Winnipeg et bien que le nombre de voyageurs transportés dans cette région soit moindre que dans la région à l'ouest de Winnipeg, l'espace disponible dans le "Canadian" ne suffirait pas, à mon avis, aux besoins du public dans la région en cause.

Je partage l'avis de mon collègue lorsqu'il dit que l'exploitation d'été du "Dominion" vaudrait au Pacifique-Canadien un déficit considérable qui se renouvellerait régulièrement si ledit service continuait d'être exploité chaque année.

Toutefois, après avoir mis en comparaison les déficits prévus et le besoin réel que le public a de ce train, compte tenu des autres moyens de transport, je ne peux en arriver qu'à une seule conclusion et c'est que la commodité et les besoins du public peuvent être mieux satisfaits par l'exploitation du "Dominion" durant la période de grande activité des voyages de touristes d'été.

En conséquence, j'ordonnerais au Pacifique-Canadien d'exploiter le "Dominion", suivant les mêmes horaires qu'en 1965 ou suivant des horaires semblables, le train ayant la composition d'été complète. Ce service d'été devrait être exploité à partir de la dernière semaine de juin jusqu'après la Fête du Travail en 1966 et en 1967.

J'ordonnerais aux chemins de fer Nationaux du Canada et au Pacifique-Canadien de tenir, durant les périodes en cause, des relevés du nombre de voyageurs qu'ils transportent, des places non assignées et des demandes de place non satisfaites. J'ordonnerais en outre au Pacifique-Canadien de fournir à la Commission des états des recettes et des dépenses d'exploitation du "Dominion" à la fin de chaque saison d'été ou aussitôt que possible après la fin de la saison.

En se fondant sur les renseignements susmentionnés, la Commission étudierait alors les résultats de l'exploitation des deux étés et estimerait le besoin de la continuation du service.

JOHN M. WOODARD

Ottawa, le 7 février 1966.

Can. The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Application of Conaway Traffic Company for a ruling with respect to the freight charges applicable on steel angles, channels, plates and beams from Sault Ste. Marie, Ont., to Amherst, N.S.

File No. 49190

February 15, 1966

D.V. HALL
D.A. BERLIS
H.J.G. PYE

*Conaway Traffic Company
Algoma Central Railway
Canadian National Railways*

RULING

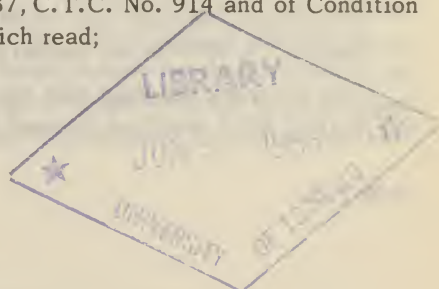
By the Board:

APPLICATION

This application by Conaway Traffic Company is on behalf of Robb Engineering Works, Amherst, N.S. A ruling by the Board is sought as to the freight rates applicable on eleven carload shipments of steel angles, channels, plates and/or beams forwarded from Sault Ste. Marie, Ont. to Amherst, N.S. during the period August 28th to November 27, 1961 via the Algoma Central Railway to Oba, Ont. and thence Canadian National Railways to destination. The matter has been considered and dealt with on the written submissions of the applicant and of the Algoma Central and Canadian National Railways.

The matter involved concerns the payment of freight charges based on a combination of freight rates published in regular tariffs of the railway companies concerned versus the payment of charges based on a combination of rates published in an agreed charge and a regular freight tariff.

Applicant contends that by virtue of the provisions of Rule 15 of Algoma Central Railway Freight Tariff G.F.D. No. 1487, C.T.C. No. 914 and of Condition 3 of Agreed Charge C.T.C. (AC) No. 1283, which read;



Rule 15 – Aggregate of Separately Established Rates

If the aggregate of separately established rates contained in tariffs on file with the Board of Transport Commissioners for Canada produces a lower charge on a shipment than the rates published in this Tariff, such aggregate of rates will apply via all routes over which the rates shown in this tariff, from points of origin to final destination are applicable.

In ascertaining the aggregate of the separately established rates under the above rule, factors applying over lake-and-rail, rail-and-lake, or rail-lake-and-rail routes only, may be used only in ascertaining rates over such routes, and may not be used in ascertaining rates over all-rail routes.

EXCEPTION:— Will not apply on traffic moving between points in the United States and points in Canada nor on traffic moving between points in Canada via routes through the United States.

CONDITION 3. This Agreement is intended to deal with the said traffic only in respect of rates for general transportation services; other terms and conditions which would otherwise be applicable shall continue to apply as if the said traffic were carried under the regular tariffs of the Carrier, and the Canadian Freight Classification.

that the rates published in Agreed Charge C.T.C. (AC) No. 1283 from Sault Ste. Marie, Ont. to Montreal, Que., in conjunction with the rates published beyond Montreal, Que. to Amherst, N.S. in Items 370 or 710 of Canadian National Railways Freight Tariff No. C.1.70, C.T.C. No. E. 1870, have application to the traffic under review, in lieu of the combination of rates published in regular freight tariffs. Applicant has succinctly set forth its position in the following paragraph of its application;—

“While we do not wish to over-simplify this matter, the whole controversy, as you will note, arose because we contended that CTC(AC) No. 1283 is in fact a tariff on file with the Board, as defined in AC&HB 1487 Item 15, and condition 3 of Tariff 1283 makes it subject to applicable “conditions” of the regular tariffs or to Item 15 AC&HB 1487. The carriers, however, in their joint letter May 7 give no consideration whatever to condition 3 CTC 1283 contending that the combination could not be used until condition 8 (a) was published January 3, 1962. We do not understand why condition 8 (a) was added when condition 3 clearly provided for the application of the combination rule conditions of the regular tariffs unless perhaps the carriers overlooked the fact that combination rules had already been in effect since August 19, 1960 in all Canadian rail tariffs —”

The railways maintain that the rates to Montreal contained in Agreed Charge C.T.C.(AC) 1283 could not be used in conjunction with regular tariff rates beyond

Montreal on traffic moving prior to January 3, 1962 due to the fact that the agreed charge agreement did not at that time authorize the use of combination rates. It was only on January 3, 1962 that the railways and The Algoma Steel Corporation mutually agreed to the amendment of Agreed Charge C.T.C.(AC) 1283 providing for the use of combination rates to destinations beyond Montreal. This was accompanied by amendments to Paragraphs "(2)" and "D", and the addition of Condition 8, in Supplement 3 to Agreed Charge C.T.C.(AC) No. 1283, which amendments were jointly executed by The Algoma Steel Corporation and the railways. The railways summarize their position in the following paragraph;—

"Under the circumstances, it is our submission that until the addition of Condition 8 to Agreed Charge C.T.C.(AC) No. 1283, effective January 3, 1962, which permits use of Agreed Charges in conjunction with regular tariff rates to construct a combination basis for through charges from Sault Ste. Marie, Ont. to Amherst, N.S. on these shipments of Steel Angles, such a basis was not lawfully applicable and, therefore, charges assessed and collected, based on regular tariff rates, were proper and we respectfully submit that this complaint has no basis in fact."

REGULAR FREIGHT TARIFFS AND AGREED CHARGES

The tariffs of tolls that railway companies are authorized to issue under the Railway Act for the carriage of goods are (a) class rate tariffs; (b) commodity rate tariffs; (c) competitive rate tariffs; and (d) special arrangements tariffs. These tariffs are accepted and recognized as the regular freight tariffs of the railways. They are published and filed in accordance with the provisions of the Railway Act and under regulations promulgated by the Board. The regulations of the Board governing the construction, filing and posting of freight tariffs by railway companies are contained in Tariff Circular 1-A, which tariff circular has been prescribed for the use of railway companies by the Board by its General Order T-3. Where these freight tariffs are filed and notice of issue given in accordance with the Railway Act and the Board's regulations, the rates, rules and regulations published therein are deemed to be the lawful tolls and take effect on the date stated in the tariff on which it is intended to take effect, and the railways thereafter are required to charge the rates as specified therein.

In addition to the railways' right to publish and file the foregoing categories of freight tariffs, the railways have been given the further power to make agreed charges by special legislation, the Transport Act, which Act specifically overrides the provisions of the Railway Act subject to the safeguard that any shipper who considers that his business will be unjustly discriminated against by an agreed charge may apply to the Board for a fixed charge for the transportation of his goods if they are the same as or similar to those covered by the agreed charge. By means of the agreed charge the shipper undertakes by written contract

to forward a guaranteed amount of traffic via the railway in exchange for satisfactory rates on his traffic. These Agreed Charge agreements are amended or changed from time to time as may be mutually agreed between the railways and the shippers.

THROUGH RATES VERSUS COMBINATION RATES

Prior to 1960 decisions of the Board had upheld the application of through rates published in regular freight tariffs between any two points in Canada to the exclusion of any lower combination of rates. The last judgment of the Board refusing an application for combination rates issued in 1957 and is reported at Vol. 47 JOR&R 235.

Subsequently the railways desired to provide in their regular freight tariffs for the application of separately established rates when same produce a lower charge on a shipment than the through published rates. The railways petitioned the Board that they be permitted to depart from certain requirements of the Board's Tariff Circular in order to implement these new provisions in all regular freight tariffs publishing line haul rates. The requisite tariff publishing authority was granted by the Board and the new combination rate provisions came into effect in all regular freight tariffs effective August 29, 1960. The new rule read;—

Aggregate of Separately Established Rates

If the aggregate of separately established rates contained in tariffs on file with the Board of Transport Commissioners for Canada produces a lower charge on a shipment than the rates published in this Tariff, such aggregate of rates will apply.

EXCEPTION:— Will not apply on traffic moving between points in the United States and points in Canada nor on traffic moving between points in Canada via routes through the United States.

This rule was subsequently amended and now reads as quoted in Rule 15 on page 2 hereof. The foregoing indicates that since August 29, 1960 lower combination of rates published in regular freight tariffs have been authorized and recognized as the applicable tolls when such combination rates were made lower than the through rates published in regular freight tariffs.

Agreed Charge C.T.C.(AC) 1283 was executed effective July 25, 1961 between The Algoma Steel Corporation and the railways on certain iron and steel articles from Sault Ste. Marie, Ont. to Montreal Que. The Algoma Steel Corporation undertook under this agreement to forward via the railways not less than 90% of the volume of its traffic. Effective on January 3, 1962 this agreement was enlarged by the interested parties by the authorization of combination rates

to destinations other than Montreal by means of the addition of the following condition to Agreed Charge C.T.C.(AC) 1283, viz.;

"Where the Agreed Charge provided to destinations specified herein used in conjunction with applicable rates therefrom to destinations not named in Paragraph "C(2)" makes a lower charge than applicable under existing tariffs such combination will apply. In applying the provisions hereof, the railways shall not be required to haul the shipment into and out of the point over which the combination is constructed."

CONCLUSION AND RULING

The matter at issue is solely one of the interpretation of the provisions of the regular freight tariffs and Agreed Charge C.T.C.(AC) 1283 applicable to past shipments and does not concern the question of just and reasonable rates, nor fixed charges, for the future. The pertinent provisions of the regular freight tariffs and of the said agreed charge have been fully reviewed. In view of the fact that the authorization of combination rates by use of the rates published in Agreed Charge C.T.C.(AC) 1283 from Sault Ste. Marie, Ont. to Montreal, Que. in conjunction with the rates published beyond Montreal, Que. to Amherst, N.S. in Items 370 or 710 of Canadian National Railways Tariff C.I. 70, C.T.C.(F) No. 1870 only came into effect on January 3, 1962, such combination rates cannot have application to the eleven carload shipments that moved during the period August 28th to November 27th, 1961. The Board finds, and so rules; that Agreed Charge C.T.C.(AC) 1283 could not be used to form combination rates during the period August 28 to November 27th, 1961, and that the said eleven carload shipments were subject to freight charges based upon the through rates or combination rates as published in the regular freight tariffs of the railways. The application of the Conaway Traffic Company is dismissed.

(sgd.) Rod Kerr
Chief Commissioner

(sgd.) J.E. Dumontier
Deputy Chief Commissioner

(sgd.) John Woodard
Commissioner

Ottawa, Ont.
February 15, 1966

56 B.T.C.

Ann. The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of The Bell Telephone Company of Canada for approval of the replacement of its existing "Employees' Stock Plan" by a new Plan entitled "Employees' Savings Plan".

File No. 36730

February 18, 1966

BEFORE:

H.H. GRIFFIN,
J.E. DUMONTIER,
W.R. IRWIN,

Assistant Chief Commissioner.
Deputy Chief Commissioner.
Commissioner.

APPEARANCES:

P.C. VENNE, Q.C.,

for The Bell Telephone Company
of Canada.

J. de GRANDPRE, Q.C.,

for The Bell Telephone Company
of Canada.

LOVELL C. CARROLL, Q.C.,

for the Canadian Federation of
Mayors and Municipalities.

Heard at Ottawa, Ontario, February 15, 1966.

JUDGMENT

BY THE BOARD:

The Bell Telephone Company of Canada, as of January 24, 1966, made the following application to the Board:

"For the past 44 years this Company has had in operation an 'Employees' Stock Plan" dated May 1, 1922 under which eligible employees are permitted to purchase shares in the Company's capital stock and to pay therefor on an instalment basis.

On May 9, 1929, after jurisdiction over the issue of capital stock of this Company was conferred on your Board, approval of the said Plan was applied for and obtained. (Board's letter dated May 13, 1929: File No. 36730).

56-B.T.C.

In the ensuing years, the said Plan has, with the approval of your Board, been amended from time to time until it has attained its present form, i.e., 'Revision effective April 1, 1965 for all subscriptions filed on or after that date' (Order No. 117067 dated March 24, 1965; File No. 36730). A copy of said present Plan is filed herewith as Exhibit I.

As approved in principle by the Board of Directors of the Applicant Company on November 24, 1965 and subject to the approval of your Board, it is now proposed to replace the existing 'Employees' Stock Plan' by a new Plan entitled "Employees' Savings Plan" which new Plan would provide as follows, namely:

1. The Plan to be available as in the past to the employees of the Applicant and, further, to be extended to the employees of such subsidiary companies of the Applicant as designated by it.
2. Subscriptions for shares of the capital stock of the Applicant to be on an annual basis with the first yearly period of payments extending from July 1st, 1966 to June 30th, 1967.
3. Payments for subscriptions to be made by payroll deductions for not less than two per cent (2%) and not more than ten per cent (10%) of basic pay as defined by the Applicant; payment may also be made by assignment of all or part of the dividends on shares bought under the existing Employees' Stock Plan or under the Plan herein referred to.
4. The Applicant to have discretion before each annual renewal period to fix the maximum percentage of subscriptions at less than the aforesaid ten per cent (10%) of basic pay; in such event a similar proportionate reduction shall be applied to the subscriptions by assignment of dividends.
5. The subscription price to be eighty per cent (80%) of the lower of:
 - i. the average market price for the second calendar quarter of the year of subscription, or
 - ii. the average market price for the second calendar quarter of the year of completion.
6. Interest at the rate of not more than 6% per annum, compounded quarterly, to be allowed on all amounts deducted from pay and on all dividends assigned and credited to the employee's account.
7. Employees to have the right at any time before completion of subscription to cancel same and be refunded their payments with interest at not more than 5% per annum, compounded quarterly.
8. The Applicant shall have the right to adapt the Plan to meet circumstances created by the termination of service of the subscriber by death, retirement, or other causes.

9. The Applicant shall be free to withdraw the Plan at the completion of any yearly subscription period.

While asking the Board to approve the heretofore mentioned terms and conditions, Applicant also requests the approval of the following changes and measures to apply in respect of the existing Employees' Stock Plan, namely:

- a) As of June 30, 1966, the existing Employees' Stock Plan shall come to an end. Subscriptions under said Plan will be accepted or renewed only where the initial payment is made prior to July 1, 1966; more specifically, new subscriptions under the existing Plan will be accepted up to April 30, 1966 for deductions from pay and up to February 28, 1966 for assignment of dividends; subscriptions under the existing Plan will be renewed if fully paid for at the end of May 1966 by deductions from pay and at the end of March 1966 by assignment of dividends.
- b) All subscriptions under the existing Plan shall be duly completed at the price and under the terms and conditions attached to same unless the subscriber consents and agrees to the following alternative arrangement: all amounts already in the hands of the Applicant on June 30, 1966, and all amounts to be deducted from pay or assigned to the Applicant thereafter shall be dealt with as follows:
 - i. The Applicant shall issue and allot to each subscriber out of the funds accumulated to June 30, 1966 and annually thereafter, as many whole shares at the subscription price of \$36 or \$42, as the case may be, as the amount of money in hand would permit. However, if at the end of any calendar quarter after June 30, 1966, the amount of money then available in the employee's account is sufficient to complete the payment of all his outstanding subscriptions under the existing Plan, the Applicant shall similarly issue and allot whole shares at \$36 or \$42, as the case may be.
 - ii. On complete payment of the subscriptions under the existing Plan in accordance with the foregoing paragraph b)i, subsequent payments shall immediately be governed in all respects by the terms and conditions pertaining to the new Plan. Amounts remaining to the credit of the subscriber after subscriptions under the existing Plan are completed shall be applied to subscriptions under the new Plan or, at the option of the subscriber, returned to him.
- c) Where the subscriber does not elect to accept the alternative arrangement specified in paragraph b), he may subscribe under the new Plan effective with the first subscription period commencing after completion of all subscriptions under the existing Plan.

The Applicant has in the course of years and on the occasion of its applications for approval of the varied terms and conditions of the former Plan, established the purpose of the Employees' Stock Plan and the advantages of such Plan for the employees and for the Applicant.

The Applicant proposes, as stated above, to extend eligibility under the new Plan to employees of its subsidiary companies designated by the Applicant. The extension of the Plan to them will, in the opinion of the Applicant, be in the interest of the Applicant and its customers.

We therefore request your Board to approve the terms of the new Plan as above outlined and to issue an order and judgment to that effect."

The matter was heard at Ottawa on February 15, 1966.

The Board has come to the following conclusion and so finds:—

1. In place of the subscription price set out in paragraph numbered 5 in the application, it approves a subscription price as follows: eighty-five per cent (85%) of the lower of:
 - a) the average market price for the second calendar quarter of the year of subscription, or
 - b) the average market price for the second calendar quarter of the year of completion.
2. That effective February 25, 1966, no new subscriptions at the current price of \$42 are to be accepted by the Company. That the only subscriptions to be accepted at the said price of \$42 are to be the automatic renewals of existing subscriptions at quantities no greater than the numbers of shares currently being subscribed for. This latter provision is to remain in effect until May 31, 1966, being the closing date for automatic renewals under the existing Plan.
3. The other provisions of the "Employees' Savings Plan" set out above in the application are, as to amount, terms and conditions of the issue of the capital stock of the Company, approved without change.

We have not been persuaded that the "Employees' Savings Plan" should be extended to subsidiaries of the Company, but should the Company wish to have the matter reviewed by the whole Board it may so request and the Board will hear it at a time and place to be set.

An Order will go to this effect.

The Board requires the Company to furnish to it by June 30, 1966, a return showing the amounts of automatic renewals in accordance with Paragraph 2 of the Board's finding. The Company will, of course, be required to continue to furnish to the Board a quarterly report showing employee participation in the

"Employees' Savings Plan" in a similar manner to that done in respect of the "Employees' Stock Plan".

(Sgd) H.H. GRIFFIN.

(Sgd) J.E. DUMONTIER.

(Sgd) W.R. IRWIN.

Ottawa, February 18, 1966.

ORDER NO. 120008

FRIDAY, THE 18TH DAY OF
FEBRUARY, A.D. 1966

H.H. GRIFFIN,
Asst. Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of The Bell Telephone Company of Canada, hereinafter called the "Applicant Company", under the provisions of Chapter 39 of the Statutes of Canada, 6 Eliz. II, re its "Employees' Savings Plan", on file with the Board under file No. 36730:

UPON hearing the application at the sittings of the Board held at Ottawa on the 15th day of February, 1966, in the presence of Counsel for the Applicant Company, and Counsel for the Canadian Federation of Mayors and Municipalities, Intervener; upon hearing what was alleged, and upon the evidence supplied in support of the application—

IT IS HEREBY ORDERED AS FOLLOWS:

Approval is given to the issue and sale to its employees only by the Applicant Company of shares of its capital stock subscribed in the amount and subject to the terms and conditions contained in the Company's plan entitled "Employees' Savings Plan" described in the Applicant Company's application filed with the Board on January 24, 1966, which is approved as to the amount, the terms and conditions, but subject to the following modifications:

1. The subscription price shall be eighty-five per cent of the lower of:
 - (a) the average market price for the second calendar quarter of the year of subscription, or
 - (b) the average market price for the second calendar quarter of the year of completion.

2. That effective February 25th, 1966, no new subscriptions at the current price of \$42 are to be accepted by the Company. That the only subscriptions to be accepted at the said price of \$42 are to be the automatic renewals of existing subscriptions at quantities no greater than the numbers of shares currently being subscribed for. This latter provision is to remain in effect until May 31, 1966, being the closing date for automatic renewals under the existing plan.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

56 B.T.C.

Can. The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the Town of Ingersoll, in the Province of Ontario, for an inquiry by the Board of Transport Commissioners for Canada, into the protection at the crossing at grade of Thames Street (Highway No. 2) and the tracks of the Canadian National Railways, at mileage 58.9 Dundas Subdivision.

File No. 5087

February 24, 1966.

BEFORE:

H.H. GRIFFIN,
J.M. WOODARD,
A.S. KIRK,

Assistant Chief Commissioner.
Commissioner.
Commissioner.

APPEARANCES:

W.R. MARSHALL, Q.C.,
L.M. BALL, Q.C.,
H.J.G. PYE,
REV. GEORGE LOCKHART,

for the Town of Ingersoll.
for the Oxford Liberal Association.
for Canadian National Railways.
President, Ingersoll Ministerial
Association.

JAMES OSBALDESTON,

Vice-Chairman, Ingersoll Liberal
Association.

Heard at Ingersoll, Ontario, December 14, 1965.

JUDGMENT

WOODARD, C.

Thames Street, which carries traffic on Provincial Highway No. 2 through the Town of Ingersoll, crosses the C.N.R. Dundas Subdivision at M.P. 58.9. The Dundas Subdivision is a double-track main line at that point and runs roughly east and west and just north of the Thames River. The C.N.R. Station is situated just west of Thames Street and on the south side of the tracks.

Thames Street, which runs approximately north and south at this point, crosses the tracks at about right angles with a slight down grade from north to

south. There are pedestrian sidewalks on both sides of the paved roadway. Sight lines in the northwest, southwest and southeast angles of the crossing are satisfactory. In the northeast angle of the crossing there is a building owned by the Eidt Feed Company, located close to the street line and very close to the northerly boundary of the Railway right of way. This building obstructs the eastward view of southbound pedestrians until they are about 27 to 30 feet from the crossing.

From 1908 until 1957, this crossing was protected by manually-operated gates, which, in addition to closing off traffic over the roadway, also barred access to the sidewalk over the tracks. On July 11, 1956, Board Order No. 89197 authorized the installation of the existing protection, short-arm gates with lights and bell. This installation was put into service on February 15, 1957. On January 10, 1958, Board Order No. 93377 authorized some changes in the protection circuitry necessary to alleviate delays to vehicular traffic flow. The existing protection consists of flashing lights and bell, with gates which lower over the travelled portion of the roadway, but does not provide gate protection over the sidewalks on either side of the Railway tracks. The circuitry is so timed as to provide a minimum of 23 seconds elapsed time between the commencement of operation of the protection and the arrival at the crossing of a train travelling at 80 miles per hour from either east or west. Should an eastward train, having actuated the protection, stop at the station, the protection will continue to function for 60 to 80 seconds, will then cut out, and the gates will raise. Train crews must then use a push button to re-actuate the protection and must not occupy the crossing until the protection is fully operating and the gates lowered.

I might add at this time that this type of protection is of a standard used throughout Canada and the United States for the protection of double-track main lines, and must under the provisions of the Board's General Order E-6, provide at least 20 seconds warning to traffic before the crossing is occupied by the approaching train. Push-button operation as is in use on this crossing, is dependent upon operating conditions at individual crossings, and may or may not be required.

The matter of the existing protection at the crossing of Thames Street, insofar as it pertains to vehicular traffic, is not an issue in this Judgment. The concern of the Corporation of the Town of Ingersoll is the matter of pedestrian protection by means of sidewalk gates.

As a result of representations made by, and for, the Corporation of the Town of Ingersoll, the matter of pedestrian crossing protection at Thames Street was set down for hearing. The hearing was held in Ingersoll on December 14, 1965.

Events leading up to Hearing

Following the placing in operation of the automatic protection in 1957, protests were received by the Board from Ingersoll and from citizens of the Town, regarding the poor operation of the protection, and also protesting the lack of sidewalk arms as protection for pedestrians, both adults and children. As heretofore mentioned, on January 10, 1958, Board Order No. 93377 was issued which authorized circuitry changes which eliminated to a great degree, undue functioning of the protection with consequent delays to vehicular and pedestrian traffic. Subsequent to this the Board advised the Corporation of the Town of Ingersoll that it felt that the protection provided at the crossing was satisfactory without the addition of sidewalk arms.

On November 6, 1959, a pedestrian fatality occurred at the crossing, when a Mrs. Gordon Pepper, walking southward on the east sidewalk and pushing her infant son in a buggy, proceeded to cross the tracks as the lights were flashing and bell ringing and gates down, and was struck by an eastward train. It was presumed that Mrs. Pepper had almost cleared the tracks when she was struck by the train. The baby and buggy were clear of the locomotive and while the buggy was smashed the baby was thrown clear and uninjured. Mrs. Pepper was killed by the impact.

Three days following this fatality the Chief of Police of Ingersoll, on instructions from the Mayor, advised the Board that it was Town Council's intention to re-open the matter of pedestrian protection at this crossing.

The verdict of the Coroner's Jury into the fatality recommended as follows:

"That proper protective gates for pedestrian walks be installed at this crossing and that this recommendation be forwarded to the Board of Transport Commissioners."

No action was taken by the Board on the recommendation of the Coroner's Jury, inasmuch as the Board was of the view that the existing protection was adequate and safe. The Town Council did not re-open the matter of pedestrian protection at this time.

On August 27, 1965, Janice Walgos, aged 9, was instantly killed at this crossing. The child rode her bicycle southward down the west sidewalk and onto the crossing, with the protection operating and short arm gates down over the roadway. Her bicycle contacted the rear of the leading unit, north side, of Extra 300 West which had just entered the crossing at a speed of about 50 miles per hour.

Following this tragic accident, the Town of Ingersoll requested of the Board that a public hearing be held with a view to determining means by which the danger might be alleviated. As stated earlier, the matter was set down for hearing and heard in Ingersoll on December 14, 1965.

Evidence was adduced at this hearing to the effect that vehicular traffic over this crossing is quite heavy inasmuch as Thames Street carries Highway No. 2 traffic through the town. However, as protection for vehicular traffic is not an issue in this case I will not be considering it in this Judgment. The number of train movements over the crossing is about 47 per day, many of which travel at high speeds. On the basis of a pedestrian count held on December 9 and 10, 1965, it would appear that from 1300 to 1500 pedestrians per day use the crossing, a large majority of whom are children, travelling to and from a Public School, a Separate School and a Collegiate Institute, which are located a relatively short distance north of the crossing. The ages of these school children range from five or six years to eighteen or nineteen. I might mention at this time that evidence given in connection with the traffic count indicated that a good number of pedestrians ignored the visual and audible warnings at the crossing and crossed over while the protection was operating.

To sum up the position of the Town in the matter, it is as follows:

1. Rail traffic is very heavy and much of it at high speed.
2. Pedestrian traffic is heavy, with a large part of it being children of school age.
3. The situation at the crossing is unique inasmuch as the sight lines in the north-east quadrant are poor.
4. Audible and visual warnings are not sufficient at this crossing.
5. Two fatal accidents have occurred at this crossing since the present protection was placed in operation in January 1958. Either or both of these fatalities may have been avoided had there been a physical barrier over the sidewalks.
6. The only solution to the hazard existing at this crossing is the installation of gates over the sidewalks, both north and south of the tracks, in addition to the protection already afforded.

Canadian National Railways, through correspondence and in evidence at the hearing, opposed the position taken by the Town of Ingersoll on the following bases.

- (a) The present protection at Thames Street crossing is of the most modern type, considered by Canadian and American Railroads to be the best available for level crossings.
- (b) Statistics presented as evidence indicate that the incidence of pedestrian accidents at crossings is greater where sidewalk gate protection is in operation. (Such installations are manually-controlled gate protection.)
- (c) In some instances such gates have contributed to accidents by trapping pedestrians between the gates on the crossing.

- (d) It is possible, where such sidewalk gates are operated in conjunction with short arm gates by means of a gear, for the short arm gates to be raised by vandals or pranksters lifting up on the sidewalk gate when the protection is in operation. Evidence was adduced of a fatality to an occupant of a vehicle occurring in such a manner at a crossing in the United States.

Discussion

I would agree with the Town of Ingersoll that rail traffic is heavy and fast over this crossing, and that vehicular and pedestrian traffic are also heavy. I cannot agree, however, that the crossing is unique because of restricted sight lines in the north-east quadrant. A great proportion of protected crossings have restricted sight lines. Indeed that is one of the primary purposes of crossing protection, to give advance warning to pedestrian and vehicular traffic where sight lines are restricted. I might mention at this time that the first of the fatalities referred to involved a train approaching from the west, where sight lines were good.

A review of statistics compiled by the Board over the years supports the contention of the Railway that the incidence of pedestrian accidents are greater where sidewalk gates are in operation (manually operated) than at crossings where no such pedestrian gates exist (automatic protection). This in spite of the fact that the number of manually-operated gates is far fewer than the number of automatically-operated short arm gates only.

I would agree with the Town of Ingersoll that it is possible that one or both of the fatalities might have been prevented had there been a physical barrier over the sidewalk at the time. However, I must also give weight to the evidence in our own records that such gates at manually-operated protections have caused many accidents when pedestrians have been trapped on the crossing between lowered sidewalk gates.

Findings and Recommendations

The matter of protection at level crossings is one of great concern to the Board, and one that lends itself to a continuing study of ways and means of improving such protection. I am firmly of the opinion that the existing protection at Thames Street is of the most modern type available, one which gives more than the required advance warning by means of flashing lights, bell and short arm gates over the travelled portion of the roadway. I am also of the opinion that the addition of gates over the sidewalks would contribute nothing to the existing protection, but could only add to the danger inherent in the possibility of entrapment of pedestrians on the crossing between such gates.

While I am aware that it is not within the purview of the Board, I feel I should comment on the matter of traffic education in the Town of Ingersoll.

There is no town by-law prohibiting the riding of bicycles on the sidewalks. It might be well argued that had there been one, it could have been as much of a deterrent to the actions of the girl cyclist who was killed, as would the existence of sidewalk gates. The Chief of Police in his evidence stated that the operation of bicycles comes under the provisions of the Highway Traffic Act. It would appear that these provisions are not being enforced. Evidence by the same witness was that on the days on which the traffic count was taken, 189 pedestrians crossed despite the fact that the protection was operating and the arrival of a train imminent. I would think the citizens of Ingersoll should respect the warnings at this crossing in the same way that they would traffic signals at street intersections.

In the light of the evidence adduced at the hearing, the information available to the Board with respect to similar crossings elsewhere in Canada and the statistics of the Board respecting crossing accidents over a period of more than ten years, I must conclude that the addition of sidewalk gates would add nothing to the existing protection and I will not order their installation.

I would suggest, however, that the Town of Ingersoll consider the placing of a patrolman or watchman at the crossing at peak traffic periods, particularly on school days, and when other conditions require it, for the purpose of pedestrian education and control.

The Board is of the opinion that the only permanent solution to the traffic problem at this crossing would be the construction of a grade separation. I would further suggest, therefore, that the Town of Ingersoll enter into discussions with the Department of Highways of Ontario, towards the possibility of the construction of a grade separation over the Thames Street Crossing. Should such studies prove that a grade separation is feasible at this location, the Board, under the provisions of Section 265 of The Railway Act, would be prepared to contribute from The Railway Grade Crossing Fund an amount equal to eighty percent of the cost of the grade separation, not to exceed an amount of \$500,000. Should a pedestrian underpass, which would involve closing of the two sidewalks across the tracks, be proposed, the Board will consider making such contribution from The Railway Grade Crossing Fund as may be appropriate under the circumstances.

The Board is able, by reason of its knowledge of the history and conditions at the crossing, to give this assurance at the present time. It is, however, given within the limits of The Railway Act and the Board's General Orders. The Board suggests the initiation of prompt studies and, if such show a grade separation or a pedestrian underpass to be feasible, the early preparation of plans and their submission to the Board.

Because of the decision in this case, an Order will not be necessary.

(Signed) JOHN M. WOODARD.

I CONCUR:

(Signed) H. H. GRIFFIN.

(Signed) A. S. KIRK.

OTTAWA, February 24, 1966.

Canada (The) Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 119774

**TUESDAY, THE 1ST DAY OF
FEBRUARY, A.D. 1966.**

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

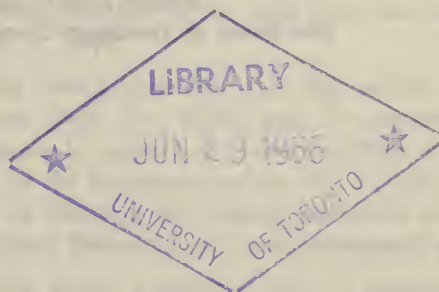
*IN THE MATTER OF the applica-
tion of the Canadian Freight Asso-
ciation, under section 325 of the
Railway Act, for approval of Supple-
ment No. 27 to Canadian Freight
Classification No. 21, C.T.C. (F)
No. 1681, on file with the Board
under file No. 49084.28:*

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 27 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, on file with the Board under file No. 49084.28, is approved.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.



ORDER NO. 119834

FRIDAY, THE 4TH DAY OF
FEBRUARY, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company", for authority to abandon the branch line serving the Nathanson property and Canada Cement Company, Limited, in the City of Windsor, Township of Sandwich West, in the Province of Ontario, as shown in red on Plan No. A-12-15-F, dated August 22, 1957, on file with the Board under file No. 24364.8:

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicant Company is authorized to abandon the branch line of railway serving the Nathanson property and Canada Cement Company, Limited, in the City of Windsor, Township of Sandwich West, in the Province of Ontario, as shown in red on the said plan on file with the Board under file No. 24364.8.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 119995

MONDAY, THE 14TH DAY OF
FEBRUARY, A.D. 1966

ROD KERR, Q.C.,

Chief Commissioner.

H.H. GRIFFIN,

Asst. Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

IN THE MATTER OF *Vote 84d of
the Supplementary Estimates (D)
1965-66, and Appropriation Act
No. 1, 1966:*

File No. 48771.3

WHEREAS *Vote No. 84d* of the Supplementary Estimates (D) for the fiscal year ending March 31, 1966, is as follows:

Vote 84d - To provide payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada of an aggregate amount of \$20,000,000 in respect of the period April 1, 1965 to March 31, 1966, to be paid in instalments at such times as may be determined by the said Board for the purpose of reimbursing the said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by the said Order; and to provide payments to the said companies of an aggregate amount in respect of the calendar year 1965 of \$50,000,000 to be paid in instalments at such times and in accordance with such methods of allocation as may be determined by the said Board for the maintenance by such companies of the rates of freight traffic as the said reduced level(20)... \$70,000,000.

AND WHEREAS eleven-twelfths of the said *Vote* was authorized for payment by Appropriation Act No. 1, 1966.

AND WHEREAS the Board considers that the method of claiming by companies subject to Board Order No. 96300 and the payment of claims and the making of interim payments in respect of eleven-twelfths of the said \$20,000,000 authorized for payment by the Appropriation Act No. 1, 1966, should be in accordance with the methods of claiming and making payments which were in effect in respect of the Freight Rates Reduction Act and subsequent appropriations.

AND WHEREAS the Board considers that in determining the method of allocation and the times of payment of instalments in respect of eleven-twelfths of the said \$50,000,000 authorized for payment by the Appropriation Act No. 1,

1966, it should have regard to the freight traffic carried by the said companies at the said reduced level of rates based on an 8% increase instead of 17% as authorized by Board Order No. 96300 and also, because of the time lag in obtaining particulars of such traffic carried during the eleven months January 1 to November 30, 1965 and other circumstances, that instalment payments should be based on similar traffic carried during part of 1964 and in 1965, with such adjustment as may be necessary to provide for total payment in accordance with the method of allocation determined by the Board and hereinafter set forth.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

1. Companies claiming reimbursement for diminution in their aggregate gross revenues attributable to maintaining the rate level for freight traffic at an 8% increase instead of 17% authorized by Board Order No. 96300 in respect of the period April 1, 1965 to March 31, 1966, shall submit claims in the forms hereinbefore ordered by the Board for the submission of claims in respect of the Freight Rates Reduction Act and subsequent appropriations.

2. Companies entitled to claim reimbursement under the immediately preceding paragraph numbered 1 may, prior to filing such claim, apply to the Board for an interim payment; companies will submit with such application an estimate of the claim for a particular month as soon as possible after the close of such month and the Board will thereupon determine the amount of the interim payment in respect of traffic carried during that month.

3. Companies submitting a claim for a month in respect of which an interim payment has been received will show the total claim for that month in accordance with past practice less a final deduction in the amount of any interim payment received in respect of that month.

4. Subject to paragraph 5 the method of allocation of eleven-twelfths of the said \$50,000,000 pursuant to the Appropriation Act No. 1, 1966, to companies subject to Order No. 96300 shall be the allocation to each company of an amount that bears approximately the same relation to the total amount payable to all companies under the said Appropriation Act as the amount paid to the company in respect of reimbursement claims for diminution in aggregate gross revenues attributable to such company maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by Board Order No. 96300 during the eleven months January 1 to November 30, 1965, bears to the total amount paid to all companies in respect of such claims for the same period.

5. After deducting from the said \$50,000,000 the amount payable therefrom to companies other than Canadian National Railways and Canadian Pacific Railway Company in accordance with paragraph 4, the remainder shall be allocated 60% to Canadian National Railways and 40% to Canadian Pacific Railway Company.

6. Upon issuance of this Order the Board shall not recommend payments out of eleven-twelfths of the said \$50,000,000, for the year 1965, except to the extent that payments may be due as additional payments to those made under authority of Special Warrants dated December 1, and December 29, 1965 and Board Orders No. 119195 and No. 119482.

(Note:

In calculating the amount payable to each company the Board will make an allocation based on payments to companies in respect of traffic carried during part of 1964 and in 1965, with such adjustment and deferment of payments as the Board deems necessary to insure that the total amount payable shall be allocated in accordance with the method set forth in paragraphs 4 and 5.)

7. The Board may make any amendments of this Order that it deems necessary in order to equitably allocate the amount authorized for payment under the said Appropriation Act.

(SGD) ROD KERR,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120045

WEDNESDAY, THE 23RD DAY OF
FEBRUARY, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Algoma Central Railway
for approval of Standard Passenger
Tariff No. C.T.C. No. 2, on file
with the Board under file No. 45743:*

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

1. Algoma Central Railway Standard Passenger Tariff C.T.C. No. 2 naming maximum passenger fare of five (5) cents per mile or fraction thereof, subject to a minimum adult one-way fare of 25 cents, is hereby approved.

2. The issuance and filing of the aforesaid tariff shall be preceded by publication thereof in The Canada Gazette as follows:

Algoma Central Railway standard passenger tariff C.T.C. No. 2 naming maximum passenger fare of 5 cents per mile or fraction thereof, subject to a minimum adult one-way fare of 25 cents has been submitted for the approval of the Board of Transport Commissioners for Canada and has been approved by Order of the Board No. 120045, dated February 23, 1966, and the said fare is hereby published as required by Section 339 of the Railway Act.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

**ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, DECEMBER, 1965.**

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents	249	9	274
Level Crossing Accidents	62	22	69
	<u>311</u>	<u>31</u>	<u>343</u>

	<u>Killed</u>	<u>Injured</u>
Passengers	—	64
Employees	2	199
Others	29	80
	<u>31</u>	<u>343</u>

Of the 62 accidents at Highway Crossings, 46 occurred where standard railway crossing signs are located, 16 where additional forms of protection are in use, 30 after Sunrise and 32 after Sunset.

OTTAWA, ONT.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 119706 January 21 - Approving changes in the automatic protection at crossing of the C.N.R. and the highway at St. Philippe de Neri, P.Q., mileage 31.27 Montmagny Subd.
- 119707 January 21 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Petit Pre Access Road in Ange Gardien, P.Q., mileage 11.97 Murray Bay Subd.
- 119708 January 21 - Authorizing the Town of Ituna, Sask., to widen Main St. across the C.N.R. at mileage 34.41 Watrous Subd.
- *119709 January 21 - Authorizing the C.N.R. to use jointly with the C.P.R. the trackage of the C.P.R. from point of connection of C.N.R. with switching lead of C.P.R. at Smiths Falls Yard to the Smiths Falls station of the C.P.R.; from the said station to the junction switch of the C.P.R. Brockville Subd., and from the said junction switch at Smiths Falls to Brockville, mileage 27.8 of the Brockville Subd. of the C.P.R. (See page 148, 56 B.T.C.)
- 119710 January 21 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Alma St., in Hebertsville, P.Q., mileage 85.84 Jonquiere Subd.
- 119711 January 21 - Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie Téléphonique St-Grégoire pour les Districts de Nicolet et Arthabaska.
- 119712 January 21 - Approving Revised Appendix and Supplement to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone du Chateau Richer Enrg.
- 119713 January 21 - Approving location of proposed flammable liquid storage facilities of Imperial Oil Limited at St. Lazare, Man., C.N.R.
- 119714 January 21 - Approving location of proposed flammable liquid storage facilities of Imperial Oil Limited on C.N.R. right of way at Montague, P.E.I.
- 119715 January 21 - Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 119716 January 21 - Approving Revised Appendix and Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Telebec Inc.

- 119717 January 21 – Amending Order No. 114557, re apportionment of cost of installing automatic protection at crossing of the C.P.R. and 4th Concession Road in Levack, Ont., mileage 102.37 Cartier Subd.
- 119718 January 21 – Amending Order No. 113412, re apportionment of cost of modernizing the protection at crossing of the C.N.R. and Bridge St., in Hastings, Ont., mileage 41.20 Campbellford Subd.
- 119719 January 21 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 14 south of Marmora, Ont., mileage 27.13 Maynooth Subd.
- 119720 January 21 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 3 at Timberlea, N.S., mileage 7.34 Chester Subd.
- 119721 January 21 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 26, at St. Jean Port Joli, P.Q., mileage 56.46 Montmagny Subd.
- 119722 January 21 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 51, at St. Alexandre, P.Q., mileage 11.65 Montmagny Subd.
- 119723 January 21 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 25A, in St. Charles, P.Q., mileage 100.1 Montmagny Subd.
- 119724 January 21 – Approving location of proposed ammonium nitrate storage facility of Killarney Consumers Co-Operative Limited at Killarney, Man., C.P.R.
- 119725 January 21 – Amending Order No. 113150, re apportionment of cost of installing protection at Intersection of King St. East and Ritson Road and the C.N.R., and at the intersection of Athol St. and Ritson Road and the C.N.R., in Oshawa, Ont.
- 119726 January 21 – Authorizing the Nova Scotia Dept. of Highways to reconstruct the highway where it crosses the D.A.R. near Village of East Brenton, mileage 75.8 Yarmouth Subd.
- 119727 January 21 – Authorizing the Nova Scotia Dept. of Highways to reconstruct the highway where it crosses the D.A.R. near the Village of Lake Jessie, mileage 71.3 Yarmouth Subd.
- 119728 January 21 – Authorizing the Nova Scotia Dept. of Highways to reconstruct Upper Cross Road across the D.A.R. near Acacia-ville, mileage 22.5 Yarmouth Subd.

- *119729 January 21 – Authorizing the C.N.R. to open for traffic their Talbot Subd., formerly the London & Port Stanley Rly. (See page 150, 56 B.T.C.)
- 119730 January 21 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 119731 January 21 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. at Sturgeon Falls, Ont., mileage 24.73 Cartier Subd.
- 119732 January 21 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 8.7 Nechako Subd., B.C.
- 119733 January 21 – Authorizing the removal of the speed limitation at crossing of First St. and the C.P.R. in London, Ont., mileage 111.63 Galt Subd.
- 119734 January 21 – Requiring the C.N.R. to install automatic protection at crossing of the C.N.R. and Church St. in St. Joachim, P.Q., mileage 25.18 Murray Bay Subd.
- 119735 January 24 – Approving tolls published in tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 119736 January 24 – Authorizing the removal of the speed restriction of 10 m.p.h. at the crossing the Q.C.R. and Main St., in North Hatley, P.Q., mileage 12.3 Newport Subd.
- 119737 January 24 – Authorizing the C.N.R. to remove the station building at St. Pacome, P.Q., mileage 36.9 Montmagny Subd., and replace it with a shelter.
- 119738 January 24 – Authorizing the C.P.R. to remove the caretaker and station building at Linwood, Ont.
- 119739 January 24 – Authorizing the C.N.R. to remove the station at Lyon Brook, N.S.
- 119740 January 24 – Authorizing the C.P.R. to remove the agent at Kandahar, Sask., provided a resident caretaker is appointed and available for duty.
- 119741 January 24 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 67.01 Dundas Subd., Ont.
- 119742 January 25 – Amending Order No. 116503, which authorized the Township of Oro to widen Township Road where it crosses the C.N.R. at mileage 68.30 Newmarket Subd., Ont.

- 119743 January 25 – Authorizing the C.N.R. to remove the agent at Hubbard, Sask., provided a resident caretaker is appointed and available for duty.
- 119744 January 25 – Authorizing the British Columbia Telephone Company to transfer certain telephone exchanges from one Exchange Rate Group to another Group.
- 119745 January 26 – Approving location of proposed Ammonium Nitrate storage facility of St. Paul Co-operative Association Limited at St. Paul, Alta., C.N.R.
- 119746 January 26 – Approving location of proposed flammable liquid storage facilities of The British American Oil Company at Barrhead, Alta., N.A.R.
- 119747 January 26 – Authorizing the C.N.R. to operate on the wye track of the railway between mileage 2.75 Grimsby Subd., and mileage 0.31 Welland Subd., Niagara Falls, Ont.
- 119748 January 26 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 119749 January 26 – Authorizing the C.N.R. to close the agency at New Brigden, Alta.
- 119750 January 27 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway 39A, in Bienfait, Sask., mileage 85.32 Lampman Subd.
- 119751 January 27 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Avenue "W" in Saskatoon, Sask., mileage 2.78 Warman Subd.
- 119752 January 27 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Perth Junction, N.B., mileage 0.34 Tobique Subd.
- 119753 January 27 – Approving signal changes on the Quebec North Shore and Labrador Rly. between certain mileages.
- 119754 January 27 – Requiring the C.N.R. to install protection at crossing of their railway and Provincial Road No. 305, near Warman, Sask., mileage 3.58 Langham Subd.
- 119755 January 27 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 58 at Miquelon, P.Q., mileage 91.08 Kiask Falls Subd.
- 119756 January 27 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Omer Plante Road in Chateau Richer, P.Q., mileage 14.00 Murray Bay Subd.

- *119757 January 28 – Authorizing the C.N.R. to abandon the trackage known as Martin's Spur, or Hope Farm Spur, leading from the Letellier Subd. at mileage 46.95, a distance of approx. 2¼ miles, Ste. Agathe, Man. (See page 151, 56 B.T.C.)
- 119758 January 28 – Authorizing the C.P.R. to remove the caretaker and the station building at Etzikom, Alta.
- 119759 January 28 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highway No. 51, at Riviere Bleue, P.Q., mileage 45.23 Monk Subd.
- 119760 January 28 – Rescinding Order No. 113793, which approved location of flammable liquid storage facilities of Imperial Oil Limited near the C.P.R. at Bridgeford, Sask.
- 119761 January 28 – Approving location of proposed flammable liquid storage facilities of Home Oil Distributors Ltd., at Vernon, B.C., C.N.R.
- 119762 January 28 – Authorizing the Rural Munic. of Baildon No. 131, Sask., to construct the municipal road across the C.P.R. at mileage 25.6 Expanse Subd.
- 119763 January 28 – Authorizing the Municipal District of Rocky View No. 44, Alta., to widen the Municipal road where it crosses the C.P.R. at mileage 162.13 Brooks Subd.
- 119764 January 28 – Authorizing the Saskatchewan Dept. of Highways and Transportation to reconstruct Provincial Trunk Highway No. 39 where it crosses the C.P.R. at mileage 40.94 Portal Subd.
- 119765 January 28 – Authorizing the Township of Gainsborough, Ont., to reconstruct Power Line Road where it crosses the T.H. & B.R. at mileage 2.07 Dunnville Subd.
- 119766 January 28 – Authorizing the Rural Munic. of Lipton No. 217, Sask., to reconstruct the municipal road where it crosses the C.P.R. at mileage 37.97 Bulyea Subd.
- 119767 January 28 – Authorizing the Saskatchewan Dept. of Highways and Transportation to reconstruct the highway across the C.P.R. at mileage 53.35 Swift Current Subd.
- 119768 February 1 – Approving Supplement to new Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de la Paroisse de St. Theodore d'Acton.

- 119769 February 1 – Authorizing the removal of the speed limitation at crossing of Montee de Liesse Road and the C.N.R. in Saraguay, P.Q., mileage 2.69 Montford Subd.
- 119770 February 1 – Amending Order No. 118679, which authorized the reconstruction of the overhead bridge carrying Highway No. 12 across and over the C.N.R. near Alix, Alta., mileage 5.70 Three Hills Subd.
- 119771 February 1 – Authorizing the Quebec Dept. of Roads to construct St. Pierre de la Famine Road across the Q.C.R. at mileage 22.60 Chaudiere Subd.
- 119772 February 1 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 42 in Forfar, Ont., mileage 54.35 Smiths Falls Subd.
- 119773 February 1 – Authorizing the N.S. Dept. of Roads to realign and improve Reynardton Road where it crosses the C.N.R. at mileage 126.84 Yarmouth Subd.
- *119774 February 1 – Approving Supplement No. 27 to Canadian Freight Classification No. 21 submitted by the Canadian Freight Association. (See page 227, 56 B.T.C.)
- 119775 February 1 – Approving installation of the electric lock at main track switch of the C.N.R. storage spur located at mileage 190.0 Edson Subd., Alta.
- 119776 February 1 – Apportioning the cost of maintenance and operation of the Automatic protection at crossing of the N.Y.C.R. and the City of Windsor, Ont. mileage N.F. 220.56 Mainline Subd.
- 119777 February 1 – Amending Order No. 115561, re apportionment of cost of improving the approach grades where Boundary Road crosses the C.N.R., in Cornwall, Ont., mileage 64.7 Cornwall Subd.
- 119778 February 1 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Telephone du Nord de Quebec Limitee (Division de Val d'Or).
- 119779 February 1 – Requiring the C.P.R. to install automatic protection at crossing of its railway and the highway west of Tilley, Alta., mileage 53.60 Brooks Subd.
- 119780 February 1 – Authorizing the C.P.R. to remove the station building at Abercorn, P.Q.
- 119781 February 1 – Authorizing the C.N.R. to operate on their St. Clair River Industrial Spur from mileage 3.2 of Froomfield Spur,

South of Sarnia, Ont., to the property of Canadian Industries Limited.

- 119782 February 1 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 119783 February 1 – Approving changes in the signal system at Belleville, Ont., between mileages 216 and 221 Gananoque Subd., C.N.R.
- 119784 February 2 – Relieving the C.P.R. from erecting right of way fencing on the south side only of its Napinka Subd. from mileage 90.68 to mileage 91.68, Man.
- 119785 February 2 – Relieving the C.P.R. from erecting right of way fences between certain mileages on its Windsor Subd., Ont.
- 119786 February 2 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 124.84 Vegreville Subd., Alta.
- 119787 February 2 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 15.05 Halton Subd., Ont.
- 119788 February 2 – Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 119789 February 2 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at mileage 56.20 Red Deer Subd., Alta.
- 119790 February 2 – Authorizing the C.N.R. to operate on the subway structure carrying their railway across and over County Road No. 9, County of Middlesex, Ont., mileage 15.63 Chatham Subd.
- 119791 February 2 – Authorizing the C.P.R. to construct a temporary bridge at mileage 154.27 Quebec Subd., P.Q.
- 119792 February 3 – Dismissing application of the C.P.R. for authority to remove the agent and appoint a caretaker at McAuley, Man.
- 119793 February 3 – Authorizing Canadian National Telecommunications to construct an aerial wire across the Hare Indian River north of Fort Good Hope, N.W.T.
- 119794 February 3 – Authorizing the National Capital Commission to make track changes at the Industrial Ave. extension, and to construct the diversion of the C.N.R. Hurdman Spur across the temporary diversion of Industrial Ave. extension, in Ottawa, Ont.

- 119795 February 3 – Authorizing the C.N.R. to reconstruct the hinge pier and machinery towers and to re-set the apron of the ferry slip at Prince Rupert, B.C., mileage 93.2 Skeena Subd.
- 119796 February 3 – Authorizing the C.P.R. to operate on the subway carrying its railway across and over Highway No. 3, at mileage 57.08 Crowsnest Subd.
- 119797 February 3 – Authorizing the C.P.R. to operate over the bridge at mileage 1.6 Lake Cowichan Subd., B.C.
- 119798 February 3 – Authorizing the C.N.R. to remove the caretaker at Sedalia, Alta.
- 119799 February 3 – Authorizing the N.A.R. to remove the caretaker at Newbrook, Alta.
- 119800 February 3 – Authorizing the C.N.R. to close the agency and remove the station building at Fort Chambly, P.Q.
- 119801 February 3 – Authorizing the C.P.R. to remove the caretaker-agent at Ste. Marguerite, P.Q., provided a resident caretaker is appointed and available for duty.
- 119802 February 3 – Authorizing the C.N.R. to remove the caretaker at Leney, Sask.
- 119803 February 3 – Authorizing the T.H. & B.R. to remove the caretaker-agent and the station building at Fenwick, Ont.
- 119804 February 3 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at mileage 44.59 Wetaskiwin Subd., Alta.
- 119805 February 3 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at mileage 91.10 Hoadley Subd., Alta.
- 119806 February 3 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at mileage 17.57 Red Deer Subd., Alta.
- 119807 February 3 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at mileage 82.12 Trois Rivières Subd., P.Q.
- 119808 February 3 – Approving clearances at the chip loader on the private spur serving Hampton Lumber Mills Ltd., which commences at mileage 0.3 Yale Subd., at Boston Bar, B.C.
- 119809 February 3 – Authorizing The Bell Telephone Company of Canada to construct its lines of telephone under and along the lands

and right of way of the C.P.R. in Town of Ile Perrot, P.Q., at mileage 18.47 Winchester Subd.

- 119810 February 4 - Relieving the C.P.R. from erecting right of way fences on the south side of its Indian Head Subd., between mileages 108.38 and 110.41, Sask.
- 119811 February 4 - Approving location of proposed additional flammable liquid storage facilities of Standard Oil Company of British Columbia Limited at Prince George, B.C., C.N.R.
- 119812 February 4 - Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 119813 February 4 - Allocating the cost of maintenance of the automatic protection at crossing of the C.N.R. and Lauzon Road in Riverside, Ont., mileage 101.72 Chatham Subd., Ont.
- 119814 February 4 - Authorizing the C.P.R. to make changes in the signals near Upsala and near Finmark, on the Kaministiquia Subd., Ont.
- 119815 February 4 - Authorizing the Manitoba Highways Department to reconstruct Highway No. 21 where it crosses the C.P.R. at mileage 26.55 Boissevain Subd.
- 119816 February 4 - Relieving the C.N.R. from erecting right of way fences on the north side only of their Sherbrooke Subd., from mileage 69.58 to mileage 70.91, P.Q.
- 119817 February 4 - Authorizing The Bell Telephone Company of Canada to construct its lines of telephone under and along the C.N.R. in the Parish of St. Louis de Gonzague, P.Q.
- 119818 February 4 - Authorizing the N.S. Dept. of Highways to construct an overhead bridge to carry the Trans-Canada Highway (Amherst By-pass) across and over the C.N.R. at mileage 78.18 Springhill Subd.
- 119819 February 4 - Authorizing the C.N.R. to make improvements to the automatic protection at crossing of their railway and Foundry St. in Baden, Ont., mileage 72.39 Brampton Subd.
- 119820 February 4 - Authorizing the Consumers' Gas Company to install a high pressure steel gas service pipe line across and under the C.N.R. at Ingram Drive, Township of North York, Ont.
- 119821 February 4 - Approving the location of the liquid propane pipeline beneath five private siding tracks serving Caland Ore Company Limited near Atikokan, Ont., C.N.R.

- 119822 February 4 – Approving the temporary less than standard overhead clearance on the siding serving Ford Motor Company of Canada, Limited, at Oakville, Ont., C.N.R.
- 119823 February 4 – Authorizing The Bell Telephone Company of Canada to construct and maintain its lines of telephone under and along the C.P.R. in Brockville, Ont.
- 119824 February 4 – Authorizing the N.S. Dept. of Highways to construct an overhead bridge to carry the Trans-Canada Highway (Amherst By-pass) across and over the C.N.R. at mileage 75.00 Springhill Subd.
- 119825 February 4 – Authorizing the Village of Barraute, P.Q., to construct the highway across and under the C.N.R. bridge at mileage 18.3 Taschereau Subd.
- 119826 February 4 – Authorizing the Rural Munic. of Bjorkdale No. 426 to reconstruct the Municipal Road where it crosses the C.N.R. at mileage 34.80 Chelan Subd., Sask.
- 119827 February 4 – Approving clearances on the N.Y.C.R. siding serving Dibrell Brothers at Leamington, Ont.
- 119828 February 4 – Authorizing the C.N.R. to open for traffic the spur serving Scott Maritimes Pulp Limited, near Alma, N.S.
- 119829 February 4 – Authorizing the C.N.R. to construct a siding to serve Tryson and Son Iron Works, in the District of Burnaby, B.C.
- 119830 February 4 – Requiring the C.P.R. to erect and mark signboards at certain crossings of its railway and the highway throughout Canada.
- 119831 February 4 – Approving the widening of Main St. where it crosses the C.N.R. in Redwater, Alta., mileage 29.51 Coronado Subd.
- 119832 February 4 – Authorizing the C.N.R. to remove the station agent at Talmage, Sask., provided a resident caretaker is appointed and available for duty.
- 119833 February 4 – Extending the time within which the C.N.R. are required to install automatic protection at crossing of their railway and Shore Drive in Bedford, N.S., mileage 10.32 Bedford Subd.
- *119834 February 4 – Authorizing the C.P.R. to abandon its branch line serving the Nathanson property and Canada Cement Company, Limited, in Windsor, Ont. (See page 228, 56 B.T.C.)

- 119835 February 4 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 31.67 Grimsby Subd., to mileage 92.83 Chatham Subd., Ont.
- 119836 February 7 – Amending Order No. 119201, which authorized the installation of automatic protection at crossing of the C.P.R. and County Road No. 15, mileage 76.69 Belleville Subd.
- 119837 February 7 – Authorizing the County of Smoky Lake No. 13, Alta., to widen County Road where it crosses the C.N.R. at mileage 74.60 Coronado Subd.
- 119838 February 7 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and John St., in Weston, Ont., mileage 8.6 Weston Subd.
- 119839 February 7 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Kennedy Road South, in Brampton, Ont., mileage 14.4 Halton Subd.
- 119840 February 7 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 68.76 Cascapedia Subd., P.Q.
- 119841 February 7 – Authorizing the B.C. Dept. of Highways to construct the North Thompson Highway across the C.N.R. at mileage 6.42 Clearwater Subd.
- 119842 February 7 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 160.74 Mont Joli subd., to mileage 4.53 of their Deschailions Spur, commencing at mileage 46.20 Drummondville Subd., P.Q.
- 119843 February 7 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 98.6 Taber Subd., to mileage 55.31 Macleod Subd., Alta.
- 119844 February 7 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 73.75 Jonquiere Subd., to mileage 0.15 of their Deschailions Spur, commencing at mileage 46.20 Drummondville Subd., P.Q.
- 119845 February 7 – Authorizing the Quebec Dept. of Roads to widen and improve Benoit Road where it crosses the C.N.R. at mileage 50.84 St. Hyacinthe Subd.
- 119846 February 7 – Authorizing the Township of Brock to reconstruct Town Line Road where it crosses the C.N.R. at mileage 58.52 Bala Subd., Ont.

- 119847 February 7 – Approving toll published in tariff filed by the C.P.R. under section 8 of the M.F.R.A.
- 119848 February 7 – Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 119849 February 7 – Approving tolls published from Halifax, N.S. to Dixie, Ont., under sections 3 and 8 of the M.F.R.A.
- 119850 February 7 – Authorizing the N.B. Dept. of Public Works to construct a diversion of Highway No. 10 south of the C.P.R. near Pennlyn Station, N.B.
- 119851 February 7 – Authorizing the C.P.R. to remove the station building at Bury, P.Q.
- 119852 February 7 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway Nos. 15 and 29, in Smiths Falls, Ont., mileage 33.81 Smiths Falls Subd.
- 119853 February 7 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 76.51 to mileage 78.85 Hardisty Subd., Alta.
- 119854 February 8 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 70, at Shallow Lake, Ont., mileage 62.33 Owen Sound Subd.
- 119855 February 8 – Approving less than standard clearances on the temporary sidings within the boiler house for the Hydro-Electric Power Commission of Ontario at Courtright, Ont., C. & O.R.
- 119856 February 8 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Wilsey Road, in Fredericton, N.B., mileage 67.41 Centreville Subd.
- 119857 February 8 – Apportioning the cost of placing reflective markings on the sides of C.P.R. railway cars during the period January to June, 1965.
- 119858 February 8 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Halton County Road No. 3, west of Silver, Ont., mileage 30.83 Guelph Subd.
- 119859 February 8 – Requiring the C.P.R. to install automatic protection at crossing of its railway and Chemainus Road, near Chemainus, B.C., mileage 50.0 Victoria Subd.
- 119860 February 8 – Authorizing the Quebec Dept. of Roads to widen and improve the north approach of Pruches Road where it crosses the C.P.R. at mileage 127.14 Quebec Subd.

- 119861 February 8 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 16 west of Aleza Lake, B.C., mileage 110.95 Fraser Subd.
- 119862 February 8 – Approving changes in the automatic protection at crossing of the C.N.R. and Dewar's Mill Road, in Murray, N.S., mileage 65.42 Hopewell Subd.
- 119863 February 8 – Approving changes in the automatic protection at crossing of the C.N.R. and the highway west of Maccan Station, N.S., mileage 69.06 Springhill Subd.
- 119864 February 8 – Approving location of a smaller building to replace the existing station building at Lenore, Man., C.P.R.
- 119865 February 8 – Approving changes in the automatic protection at crossing of the C.N.R. and Onslow Road, near Truro, N.S., mileage 2.49 Springhill Subd.
- 119866 February 8 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Hope St., in Port Hope, Ont., mileage 141.15 Belleville Subd.
- 119867 February 8 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Cicot St., Boucherville, P.Q., mileage 7.32 Sorel Subd.
- 119868 February 8 – Amending Order No. 111439, re apportionment of cost of reconstructing York Road subway under the C.N.R. at mileage 2.1 Dundas Subd., Co. of Wentworth, Ont.
- 119869 February 8 – Approving changes in the automatic protection at crossing of the C.N.R. and the highway at Riverdale, N.S., mileage 12.73 Hopewell Subd.
- 119870 February 8 – Authorizing the Manitoba Highways Department to widen Highway No. 526 where it crosses the C.P.R. in High Bluff, mileage 48.82 Carberry Subd.
- 119871 February 8 – Approving Revised Appendix and Supplement to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St-Ephrem-d'Upton.
- 119872 February 8 – Approving location of flammable liquid storage facilities of Imperial Oil Limited at Irvine, Alta., C.P.R.
- 119873 February 8 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.

- 119874 February 8 – Authorizing the Town of Goderich, Ont., to reconstruct and widen Huron Road where it crosses the C.N.R. at mileage 44.96 Goderich Subd.
- 119875 February 8 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at St. Isidore, P.Q., mileage 212.15 Monk Subd.
- 119876 February 8 – Amending Order No. 117172, which authorized the C.N.R. to install automatic protection at crossing of their railway and the Shawville-Portage du Fort Highway, mileage 56.08 Beachburg Subd., P.Q.
- 119877 February 8 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 56.10 Beachburg Subd., to mileage 45.06 La Tuque Subd., P.Q.
- 119878 February 8 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 2.27 Chaudiere Spur (Lett St., Ottawa) to mileage 85.11 Renfrew Subd., Ont.
- 119879 February 8 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 2.42 Chaudiere Spur (Pooley St. Ottawa) to mileage 87.35 Renfrew Subd., Ont.
- 119880 February 8 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 2.21 Chaudiere Spur (Lloyd St. Ottawa) to mileage 84.05 Renfrew Subd., Ont.
- 119881 February 8 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 45, west of Belcourt, P.Q., mileage 10.66 Taschereau Subd.
- 119882 February 8 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Boverly Blvd., in St. Johns, P.Q., mileage 21.57 Rouses Point Subd.
- 119883 February 8 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway near Delhi, Ont., mileage 85.85 Cayuga Subd.
- 119884 February 9 – Approving tolls published in tariffs filed by the Canadian Freight Association from Bedford, N.S., under sections 3 and 8 of the M.F.R.A.
- 119885 February 9 – Requiring the N.A.R. to erect and mark signboards with reflective material at certain crossings of its railway, Alta. and B.C.
- 119886 February 9 – Amending Order No. 119566, which authorized the Quebec Dept. of Roads to widen 2nd Range Road where it crosses the C.N.R. at mileage 61.32 Joliette Subd.

- 119887 February 9 – Authorizing the City of Calgary, Alta., to construct an overhead bridge to carry 24th St. West across and over the C.P.R. at mileage 2.25 Laggan Subd.
- 119888 February 9 – Approving the improved vision at crossing of the C.N.R. and the Municipal Road, mileage 48.16 Bonnyville Subd., Alta.
- 119889 February 9 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 3, at mileage 1.10 Montague Subd., P.E.I.
- 119890 February 9 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Langstaff Sideroad, mileage 15.50 Newmarket Subd., Ont.
- 119891 February 9 – Authorizing the Quebec Dept. of Roads to widen and improve Highway No. 11 (Paquette Blvd.) where it crosses the C.P.R. at mileage 137.70 Ste. Agathe Subd.
- 119892 February 9 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 119893 February 9 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 10.91 Prescott Subd., to mileage 15.40 Port Burwell Subd., Ont.
- 119894 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Ste. Claire Road, Munic. of Charlesbourg West, P.Q., mileage 5.22 St. Raymond Subd.
- 119895 February 10 – Authorizing the C.P.R. to operate over the temporary deviation of its Outlook Subd. between mileages 61.13 and 62.63.
- 119896 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and intersection of Highways No. 20A and 53 at Rymal, Ont., mileage 7.12 Hagersville Subd.
- 119897 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highway No. 15, Smiths Falls, Ont., mileage 35.7 Smiths Falls Subd.
- 119898 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Chambly Road, St. Hubert, P.Q., mileage 66.46 St. Hyacinthe Subd.
- 119899 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Ridge Road, Ottawa, Ont., mileage 72.94 Alexandria Subd.

- 119900 February 10 – Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 119901 February 10 – Authorizing the Quebec Dept. of Roads to widen and improve Fourches Road where it crosses the C.N.R. at mileage 86.92 Joliette Subd.
- 119902 February 10 – Authorizing the C.N.R. to operate under the overhead bridge carrying Evansburg Access Road across and over their tracks at mileage 68.40 Edson Subd., Alta.
- 119903 February 10 – Approving changes in the automatic protection at crossing of the C.P.R. and Highway No. 7 (Ontario Rock Company Spur) in Blairton, Ont., mileage 90.78 Havelock Subd.
- 119904 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and York Mills Road, Toronto, Ont., mileage 11.2 Bala Subd.
- 119905 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 5.90 Granby Subd., P.Q.
- 119906 February 10 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Division St., Kingston, Ont., mileage 173.89 Gananoque Subd.
- 119907 February 10 – Allocating the cost of maintenance and operation of the automatic protection at crossing of Caron St. and the C.N.R. in Ste-Anne de Beaupre, P.Q., mileage 20.98 Murray Bay Subd.
- 119908 February 10 – Authorizing the Town of Whitby, Ont., to reconstruct the subway carrying Highway No. 2 (Dundas St.) under the C.P.R. at mileage 177.81 Belleville Subd.
- 119909 February 11 – Amending Order No. 110724, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Highway No. 15A, P.Q., mileage 90.17 Murray Bay Subd.
- 119910 February 11 – Requiring the C.P.R. to install automatic protection at crossing of its railway and St. Patrice Road, in St. Telesphore, P.Q., mileage 40.17 Winchester Subd.
- 119911 February 11 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 48.52 Cowan Subd., Man., to mileage 74.90 Margo Subd., Sask.
- 119912 February 11 – Authorizing the Town of St. Felicien, P.Q. to widen Ste. Anne St. across the C.N.R. at mileage 29.17 Roberval Subd.

- 119913 February 11 – Approving revisions to tariffs filed by the British Columbia Telephone Company.
- 119914 February 11 – Amending Order No. 113608, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Elgin Mills Road in Richmond Hill, Ont., mileage 22.16 Bala Subd.
- 119915 February 11 – Authorizing the Quebec Dept. of Roads to widen Petit Rang Ste. Catherine Road where it crosses the C.N.R. at mileage 88.94 Joliette Subd.
- 119916 February 11 – Amending Order No. 116180, re apportionment of cost of installing automatic protection at crossing of Deschenes Road and the C.P.R., mileage 4.75 Waltham Subd., P.Q.
- 119917 February 11 – Amending Order No. 110996, re apportionment of cost of installing protection at crossing of the C.N.R. and Laurier St., in Levis, P.Q., mileage 114.78 Montmagny Subd.
- 119918 February 11 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 39.60 Montmagny Subd., to mileage 8.40 Deschaillons Spur, at mileage 46.20 Drummondville Subd., P.Q.
- 119919 February 11 – Amending Order No. 109688, re apportionment of cost of reconstructing the subway carrying County Road No. 16 (Main St.) across and under the C.N.R. in Komoka, Ont., mileage 0.8 Longwood Subd.
- 119920 February 11 – Authorizing the C.N.R. to remove the station agent at Falkland, B.C., provided a resident caretaker is appointed and available for duty.
- 119921 February 11 – Authorizing the C.N.R. to remove the station agent at Moose Creek, Ont., provided a resident caretaker is appointed and available for duty.
- 119922 February 11 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway, west of Mallaig, Alta., mileage 9.37 Bonnyville Subd.
- 119923 February 11 – Authorizing the C.P.R. to remove the station agent at Eastray, P.Q., provided a resident caretaker is appointed and available for duty.
- 119924 February 11 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. at mileage 116.62 Sherbrooke Subd., P.Q.

- 119925 February 11 – Approving changes in the automatic protection at crossing of the Brunelle Road and the C.N.R. in Kapuskasing, Ont., mileage 68.44 Kapuskasing Subd.
- 119926 February 11 – Rescinding Orders approving the location of flammable liquid storage facilities of The British American Oil Company Ltd. near the C.N.R. at Flin Flon, Man.
- 119927 February 14 – Authorizing the Town of Unity, Sask., to widen First Ave. across the C.N.R. at mileage 58.36 Wainwright Subd., and mileage 0.05 Bodo Subd.
- 119928 February 14 – Amending Order No. 112913, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Highway No. 10, near Lebret, Sask., mileage 41.5 Qu'Appelle Subd.
- 119929 February 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Blvd. du Havre, Valleyfield, P.Q., mileage 42.86 Valleyfield Subd.
- 119930 February 14 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Montee de la Cabane Road, mileage 17.26 Trois Rivières Subd., P.Q.
- 119931 February 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at mileage 31.85 Assiniboine Subd., Sask.
- 119932 February 14 – Authorizing the C.N.R. to remove the caretaker and station building at St. George de Mal Baie, P.Q., mileage 83.3 Chandler Subd.
- 119933 February 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and John St., in North Bay, Ont., mileage 60.7 Alderdale Subd.
- 119934 February 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway south of Sparrow Lake, Ont., mileage 91.20 Bala Subd.
- 119935 February 14 – Authorizing the C.N.R. to remove the caretaker and station shelter at Summit, P.Q.
- 119936 February 14 – Authorizing the C.P.R. to operate over the bridge carrying its track over Stevensons Creek, P.Q., mileage 55.3 Waltham Subd.
- 119937 February 14 – Approving location of the temporary crude petroleum transfer facilities of the Gibson Petroleum Company Limited at Nampa, Alta., N.A.R.

- 119938 February 14 – Authorizing the Quebec Autoroutes Authority to construct dual overhead bridges to carry Laurentides Autoroute across and over the C.P.R. in Ste. Therese, P.Q., mileage 19.08 Park Ave. Subd.
- 119939 February 14 – Approving location of the flammable liquid storage facilities of Imperial Oil Limited at New Hazelton, B.C., C.N.R.
- 119940 February 16 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and the Lievre Valley Telephone Company.
- 119941 February 16 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Thamesville, Ont., mileage 49.49 Windsor Subd.
- 119942 February 16 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at St. George's, Nfld., mileage 459.15 Port aux Basques Subd.
- 119943 February 16 – Authorizing the C.N.R. to remove the agent at St. Germain, P.Q., provided a resident caretaker is appointed and available for duty.
- 119944 February 16 – Approving location of proposed metal clad office of Shell Canada Limited at Crystal City, Man., C.P.R.
- 119945 February 16 – Authorizing the removal of the speed limitation at crossing of the C. & O.R. and Cameron St., Corunna, Ont., mileage 65.8 No. 2 Subd.
- 119946 February 16 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at New Hamburg, Ont., mileage 73.67 Guelph Subd.
- 119947 February 16 – Amending Order No. 117873, which authorized the Ontario Dept. of Highways to reconstruct Perth Road where it crosses the C.P.R. at mileage 9.06 Belleville Subd.
- 119948 February 16 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Telephone du Nord de Quebec Limitee (Division de Chibougamau).
- 119949 February 16 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 119950 February 16 – Approving tolls published in tariffs filed by the Canadian Freight Association under section 3 of the M.F.R.A.
- 119951 February 16 – Authorizing the removal of the speed limitation at crossing of the C. & O.R. and Town Line Road, in Courtright, Ont., mileage 57.2 No. 2 Subd.

- 119952 February 16 – Authorizing the C.P.R. to construct a siding to serve Stuart House International Limited, across the unopened road allowance of Bradstock Road, Twp. of North York, Ont., C.P.R.
- 119953 February 16 – Authorizing the C.N.R. to operate over the extension of the private industrial lead serving St. James Industrial Area in St. James, Man.
- 119954 February 16 – Approving change in subdivision and mileage of the C.N.R. interlocker to mileage 143.6 Watrous Subd. at crossing of their railway and the C.P.R. at mileage 93.6 Colonsay Subd., near Young, Sask.
- 119955 February 16 – Authorizing the C.P.R. to close, within the limits of its right of way, the crossing of Alta Vista Drive, in Ottawa, Ont., mileage 85.8 Montreal & Ottawa Subd.
- 119956 February 16 – Authorizing the C.N.R. and C.P.R. to operate their respective trains over the Hawthorne Connection of the National Capital Commission, in Ottawa, Ont.
- 119957 February 16 – Approving changes in the automatic protection at crossing of the C.P.R. and Highway No. 3 near Morden, Man., mileage 80.4 La Riviere Subd.
- 119958 February 16 – Declaring the crossing of the C.P.R. and Township Road, at mileage 27.56 North Bay Subd., to be a public crossing, and authorizing the reconstruction of the said Township Road.
- 119959 February 16 – Authorizing the Highways Dept. of Manitoba to widen Highway No. 252 where it crosses the C.P.R. at mileage 55.50 Broadview Subd.
- 119960 February 16 – Approving clearances at the wood chip loader on the siding serving Buck River Lumber Company Ltd., commencing at mileage 85.45 Telkwa Subd., B.C., C.N.R.
- 119961 February 16 – Approving clearances on the private siding serving Sande Lumber Mills Limited, commencing at mileage 0.50 Skeena Subd., B.C., C.N.R.
- 119962 February 16 – Approving location of the flammable liquid tank car unloading facilities of the Rhineland Consumers Co-operative Limited, at Altona, Man., C.P.R.
- 119963 February 16 – Approving clearances at the wood chip loader on the private spur serving Lloyd Brothers Lumber Company Ltd., commencing at mileage 29.94 Nechako Subd., B.C., C.N.R.

- 119964 February 16 – Approving clearances at the wood chip loader on the private spur serving Fichtner Lumber Company, which commences at mileage 111.60 Fraser Subd., B.C., C.N.R.
- 119965 February 16 – Approving clearances at the wood chip loader on the private siding serving Eagle Lake Sawmills Ltd., commencing at mileage 136.00 Fraser Subd., B.C., C.N.R.
- 119966 February 16 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 13.94 Edmundston Subd., N.B. to mileage 17.68 Walkerton Subd., Ont.
- 119967 February 16 – Authorizing the C.N.R. to relocate the reflectorized crossing signals from mileage 91.08 Kiask Falls Subd., to mileage 12.26 Deschaillons Spur, which commences at mileage 46.20 Drummondville Subd., P.Q.
- 119968 February 16 – Authorizing the Ontario Dept. of Highways to construct Highway No. 508 (Calabogie By-pass) across the C.P.R. at mileage 14.09 Renfrew Spur, Ont.
- 119969 February 16 – Requiring the Essex Terminal Railway to erect and mark signboards with reflective material at certain crossings of its railway, Ont.
- 119970 February 16 – Authorizing the removal of the speed restriction at crossing of the C.N.R. spur track which commences opposite mileage 55.41 Kiask Falls Subd., P.Q.
- 119971 February 16 – Authorizing the Town of High Prairie, Alta. to reconstruct 48th St. where it crosses the N.A.R. at mileage 234.3 Slave Lake Subd.
- 119972 February 16 – Authorizing the County of Wheatland No. 16, Alta., to construct County Road across the C.N.R. between sections 26 and 27.
- 119973 February 16 – Approving construction of the overhead fuel conveyor across the C.P.R. at mileage 9.09 New Westminster Subd. and across the C.N.R. at mileage 2.29 Lulu Island Subd., in New Westminster, B.C.
- 119974 February 17 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 54.63 to mileage 54.0 Gibson Subd., N.B.
- 119975 February 17 – Authorizing the Rural Munic. of Stonehenge No. 73, Sask., to construct Municipal Road across the C.P.R. at mileage 8.37 Shaunavon Subd.

- 120003 February 18 – Approving clearances at the wood chip loader on the private siding serving Hazelton Sawmills Limited, commencing at mileage 51.35 Bulkley Subd., B.C., C.N.R.
- 120004 February 18 – Authorizing the Munic. Corp. of Onslow "South Part", P.Q., to construct the Municipal Road across the C.P.R. at mileage 32.93 Waltham Subd.
- 120005 February 18 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 182.79 Newmarket Subd., to mileage 104.20 Bala Subd., Ont.
- 120006 February 18 – Authorizing the Newfoundland Light and Power Company Limited and The Bowater Power Company Limited to remove or relocate their existing facilities to permit construction of the overhead bridge to carry the Trans-Canada Highway across and over the C.N.R. at mileage 399.73 Bishop's Falls Subd., Nfld.
- 120007 February 18 – Amending Order No. 117057, re approval of plan submitted by the C.N.R. showing change in subdivision and mileage of the interlocking at crossing of their railway and the C.P.R. near Perdue, Sask.
- *120008 February 18 – Approving application of The Bell Telephone Company of Canada for the issue and sale to its employees only of shares of its capital stock under its Employees Savings plan. (See page 218, 56 B.T.C.)
- 120009 February 21 – Approving clearances at the platform on the loading spur and at the wood chip loader on the spur serving Upper Fraser Spruce Mills Limited, commencing at mileage 103.97 Fraser Subd., C.N.R., B.C.
- 120010 February 21 – Prescribing the per cent rates of depreciation for use in the accounts of the Algoma Central Railway Company for the year ending Dec. 31, 1965.
- 120011 February 21 – Authorizing the Quebec Dept. of Roads to construct an overhead bridge to carry Highway No. 11 across and over the C.P.R. at mileage 0.94 Trois Rivières Subd.
- 120012 February 21 – Dismissing application of the C.P.R. for authority to remove the agent-operator and close the station at Grand Valley, Ont.
- 120013 February 21 – Approving location of proposed flammable liquid storage tank of Imperial Oil Limited at Edenwold, Sask., C.N.R.

- 120014 February 21 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at Port Balster, Ont., mileage 57.9 Bala Subd.
- 120015 February 21 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Notre Dame St., in Drummondville, P.Q., mileage 98.72 Drummondville Subd.
- 120016 February 21 – Approving location of proposed additional flammable liquid storage facilities of Imperial Oil Limited at St. Martin, Man., C.N.R.
- 120017 February 21 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at Shanty Bay, Ont., mileage 69.68 Newmarket Subd.
- 120018 February 21 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Pointe du Lac, P.Q., mileage 75.28 Trois Rivieres Subd.
- 120019 February 22 – Approving toll published in tariff filed by the C.N.R. under section 3 of the M.F.R.A.
- 120020 February 22 – Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 120021 February 22 – Approving tolls published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120022 February 22 – Approving tolls published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120023 February 22 – Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 120024 February 22 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway in Lacombe, Alta. mileage 18.01 Leduc Subd.
- 120025 February 22 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Rang St. Leonard (Metropolitan Boulevard) in Montreal, P.Q., mileage 1.92 Marien Avenue Spur, Longue Pointe Subd.
- 120026 February 22 – Authorizing the Quebec Dept. of Roads to improve the gradients and widen Station Road where it crosses the C.P.R. at mileage 107.15 Quebec Subd. in the Village of La Perade.
- 120027 February 22 – Authorizing the Quebec Dept. of Roads to construct an elevated road connecting Highway No. 2 and Champlain Bridge along the C.N.R. in Montreal, at mileage 0.75 to mileage 0.85 Cote St. Paul Branch.

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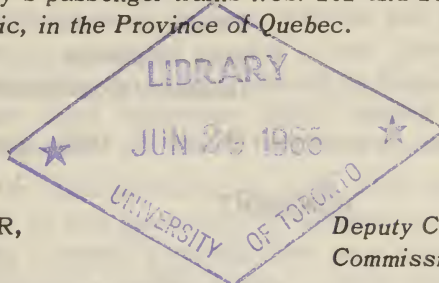
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- 120027 February 22 – Authorizing the Quebec Dept. of Roads to construct an elevated road connecting Highway No. 2 and Champlain Bridge along the C.N.R. in Montreal, at mileage 0.75 to mileage 0.85 Cote St. Paul Branch.

- 120028 February 23 – Authorizing the C.N.R. to remove the station agent at La Reine, P.Q., provided a resident caretaker is appointed and available for duty.
- 120029 February 23 – Authorizing The Canada Southern Rly. Company to remove its team track (known as the "Hill Track") which runs from the intersection of Ferry St. and Victoria Ave. to Robinson St., in Niagara Falls, Ont.
- 120030 February 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 45, in Amos, P.Q., mileage 43.33 Taschereau Subd.
- 120031 February 23 – Authorizing the C.N.R. to construct a spur track to serve Westmorland Chemical Park across Cole's Wharf Road and Dorchester Island Road in Dorchester, N.B., commencing at mileage 97.74 Springhill Subd.
- 120032 February 23 – Authorizing the Corp. of the Township of Orillia, Ont., to reconstruct the Township road where it crosses the C.N.R. at mileage 83.42 Newmarket Subd.

~~Canada~~, (The) Board of Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the proposed discontinuance of Canadian Pacific Railway Company's passenger trains Nos. 202 and 203, operating between Montreal and Megantic, in the Province of Quebec.



File No. 27563.297
March 9, 1966

BEFORE:

J.E. DUMONTIER,
J.M. WOODARD,

Deputy Chief Commissioner.
Commissioner.

APPEARANCES:

J.E. PARADIS, Q.C. }
and }
R.J. MADGE }
GUY ARSENAULT,
ALBERT RIVARD, Q.C.
J.P. PHILBIN,
FINDLAY M. MACDONALD,

for Canadian Pacific Railway
Company.

for the City of Farnham.
for the City of Sherbrooke.
Cowansville, in person.
Secretary-Treasurer, Town of
Scotstown.
representing the Brotherhood of
Railway Trainmen.
M.L.A., Missisquoi.
Union Carbide of Canada, in person.
Sutton, in person.
Compton-Frontenac.
Councillor, Lac Megantic.
Lac Megantic, in person.
Reeve, County of Frontenac.
representing the Magog Chamber
of Commerce.
Mayor, Cookshire.

L.E. BAKER,

JEAN-JACQUES BERTRAND, Q.C.
GEORGE TICKLE,
C.S. DOUGLAS,
HENRY LATULIPPE, M.P.,
G. BOULET,
J.A. ROBERGE,
J.A. NADEAU,
LORNE MACPHERSON,

R.G. HODGE,

APPEARANCES (CONTINUED):

LUC BOURQUE,

Secretary-Treasurer, County of Frontenac, and Secretary-Treasurer of the Economic Development Council of the County of Frontenac.

WALTER HODGEMAN,

Eaton, in person.

C.S. GAMACHE,

Cookshire, in person.

HENRI BOURDEAU,

representing the Sherbrooke Chamber of Commerce.

DUNCAN L. McLEOD,

Pro-Mayor of Municipality of Milan.

CLIFFORD ANDERSON,

Bury, in person.

CONRAD CAMARAIRE,

Industrial Commissioner, St. Jean.

Heard at Sherbrooke, Que. on November 16 and 17, 1965.

JUDGMENT

DUMONTIER, D.C.C.:

On October 25th, 1964 the Canadian Pacific Railway Company discontinued trains 202 and 203 operating between Montreal and Megantic. The discontinuance of these two trains involved a reduction in the passenger train service between these points rather than a complete abandonment of such service. Consequently, the Company was under no obligation to secure the Board's approval before making such an adjustment in the service.

Subsequent to the elimination of these trains the Board received protests from several of the principal municipalities including virtually every community between Sherbrooke and Megantic. These protests were supported by Chambers of Commerce, Members of Parliament and other interested parties. The substance of the submissions filed with the Board alleged that the discontinuance of these two trains had caused serious inconvenience to the travelling public particularly in the area between Sherbrooke and Megantic.

Involved in the requests made to the Canadian Pacific for the amelioration of this situation following the discontinuance of trains 202 and 203 was a resolution passed by the Town of Lac Megantic. This resolution proposed that trains 201 and 206, operating between Montreal and Sherbrooke, be extended to provide service between Montreal and Megantic. The Board received a copy of this resolution and noted that it was supported by other municipalities in the area between Sherbrooke and Megantic.

Mr. Spence, the Commission Counsel of Canadian Pacific, advised the Board on December 15th, 1964 that this proposal had been considered by the Company and on the grounds that there was not sufficient traffic offering, the proposal was rejected by the Company.

On the strength of the volume and nature of complaints which it had received at the time, the Board directed its field inspection staff to review this matter. An investigation was carried out which involved interviews with the municipal representatives, a review of the service rendered by the remaining passenger traffic trains operating through the area as well as the availability of alternative forms of public transportation and the condition of the highways paralleling the Canadian Pacific line.

It was evident from this investigation that the area most seriously affected by this reduction in passenger train service was between Sherbrooke and Megantic. The only remaining passenger train service in this area was that provided by trains 41 and 42 operating between Montreal and Saint John, N.B. Neither of these two trains is scheduled to stop at any point between Sherbrooke and Megantic, consequently, the discontinuance of trains 202 and 203 had in effect removed the last local passenger trains serving stations located between Sherbrooke and Megantic.

Following the discontinuance of this local service the Board directed Canadian Pacific to file particulars in support of its decision to discontinue this service. The Company's submissions were filed with the Board on March 10th, 1965. Following a careful review of what was then before it, the Board issued Order No. 117030 dated March 19th, 1965, directing Canadian Pacific to reinstate trains 202 and 203 within one week of the date of the Order. In the meantime, the case was set down for hearing and was heard in Sherbrooke, Quebec, on November 16th and 17th, 1965.

Mr. Burroughs, superintendent of the Farnham Division, testified that daily trains 202 and 203 between Montreal and Megantic, stop at LaSalle, Delson, St. Jean, Farnham, Foster, Eastray, Magog, Sherbrooke, Lennoxville, Cookshire, Scotstown, Nantes and Megantic. These trains consist of an air-conditioned Budd car which can accommodate seventy passengers and has a seventeen-foot baggage compartment. One car is added on weekends and holidays or special occasions according to the requirements.

Mr. George Walsh, General Passenger Agent, stated in evidence that train 202 leaves Montreal at 8.15 a.m. and arrives at Megantic at 12.20 p.m.; train 203 leaves Megantic at 2.40 p.m. and arrives in Montreal at 6.50 p.m. Mr. Walsh stated that trains 41 and 42 also operate daily between Montreal and Saint John, N.B. via Megantic. Train 41 leaves Megantic at 4.25 a.m. and arrives in Montreal at 9.00 a.m. and train 42 leaves Montreal at 7.35 p.m. and arrives in Megantic at 12.05 a.m.

Mr. Walsh also filed as exhibits a timetable of the Canadian National Railways showing that this Railway operates two daily passenger trains and a daily except Sunday, between Sherbrooke and Montreal via St. Hyacinthe and a timetable of the Voyageur Provincial Inc. (formerly Provincial Transport) showing

that this Company operates several daily bus services via the autoroute between Montreal and Sherbrooke. He also filed the timetable of the Transcar Bus Line which operates its service between Sherbrooke and Megantic. The bus leaves Megantic at 8.00 a.m. daily except Sunday and arrives in Sherbrooke at 10.00 a.m. On Saturdays and Sundays, the bus leaves Megantic at 5.35 p.m. and arrives in Sherbrooke at 7.25 p.m. In the reverse direction, the bus leaves Sherbrooke at 6.15 p.m. daily except Sunday and arrives in Megantic at 8.15 p.m. Every Saturday, the bus leaves Sherbrooke at 12.15 p.m. arriving in Megantic at 2.15 p.m. There is also a Sunday service leaving Sherbrooke at 9.15 p.m. and arriving at Megantic at 11.15 p.m. This bus service serves the localities of Bury, Scotstown, Milan and Nantes.

Another exhibit filed by Mr. Walsh indicates that Metropolitan Provincial Inc. operates a bus service between Montreal, Farnham and Knowlton.

According to Mr. Walsh's testimony, the one-way coach fare from Montreal to Sherbrooke changed during the years 1962 to 1965 as follows:

<u>Effective</u>	<u>Except Fridays and Sundays</u>	<u>Fridays and Sundays</u>
November 1, 1961 (all week)	\$4.05	—
October 27, 1963 (fare saver)	2.30	\$2.90
April 15, 1964 (" ")	3.00	3.80
September 1, 1964 (all week)	4.05	—
July 31, 1965 (" ")	5.35	—

The last fare of \$5.35 is on a basis of five cents a mile.

The bus fare between Montreal and Sherbrooke one-way, is \$3.45 except that \$0.25 is added if the bus goes via the autoroute. The railway fare between Sherbrooke and Megantic, one-way, is \$3.45 and the bus fare, one-way, is \$2.30.

Cross-examined by Mr. Arsenault, Mr. Walsh admitted that between Montreal and Megantic, a return ticket would cost \$17.60 while for the same distance between Montreal and Quebec, a return ticket would cost \$8.00. He explained that the reason for this is that the Montreal-Quebec fare is what is known as a "competitive fare". Mr. Walsh was asked by Mr. Arsenault if he had a comparison of what it would cost on the C.N.R. from Sherbrooke to Montreal and back. His answer was that from Montreal to Sherbrooke, on Red Days, the fare is \$2.60; on White Days, it is \$3.10 and on Blue Days, it is \$3.50.

Although the hearings were not held to determine any aspect on the passenger rates charged on trains 202 and 203 but rather to determine as to whether or not the Canadian Pacific Railways should be permitted to discontinue passenger trains Nos. 202 and 203 between Montreal and Megantic, I am unable to refrain from remarking that the maximum permissive rate charged (five cents per

mile) does not appear in this case to be an incentive to increasing the number of patrons on these trains, taking into consideration the very great difference between these rates and the Montreal-Quebec rates. I would consider Montreal to Sherbrooke to be as much a competitive area as Montreal to Quebec.

The evidence adduced by Mr. Brown, Senior Research Analyst, shows that the majority of carryings are between Farnham and Montreal with approximately one dozen passengers travelling between Montreal and Sherbrooke and slightly more between Sherbrooke and Farnham, but the large portion of the travel is in the far western end of the train run.

Mr. Brown filed exhibits Nos. 16 and 19 showing the annual revenues and expenses from the operation of trains 202 and 203 between Montreal and Megantic for a constructive year commencing April 1, 1965. These exhibits were subsequently revised on November 18, 1965, to include the revenues and expenses from express carried by these trains, and now appear below.

Revised Exhibit #16

**Estimated Revenues and Variable Expenses, Trains 202-203, between
Montreal and Megantic for a constructive year
commencing April 1, 1965**

Gross Revenue

Passenger Rail Fares	\$142,900
Express	7,600
TOTAL	<u>\$150,500</u>

Expenses

Estimated Annual Operating	
Cost of trains 202-203	\$216,200
Express Company	5,000
TOTAL	<u>\$221,200</u>

Net Annual Earnings (Deficit)	\$ 70,700
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Revised Exhibit #19

**Estimated Variable Expenses, Trains 202-203, between Montreal and Megantic
for a Constructive Year commencing April 1, 1965**

Item of Expense

Fuel	\$ 14,906
Enginemen's Wages	\$ 25,164

Revised Exhibit #19 (cont'd)

Item of Expense (cont'd)

Trainmen's Wages	\$ 35,830
R.D.C. Repairs	69,781
Train other Expenses	18,314
Variable Road Maintenance	4,785
General and Communications	19,082
Equipment Depreciation	7,910
Cost of Money – R.D.C.	16,803
– Road Property	3,680
Express Company	4,966
TOTAL	\$221,221
SAY	<u>\$221,200</u>

Mr. W. Armand Turgeon, Superintendent of the Canadian Pacific Express, explained in his testimony that the handling of express on trains 202 and 203 was discontinued and express traffic is handled on the freight train between Sherbrooke and Megantic, operating from Sherbrooke on Mondays, Wednesdays and Fridays and from Megantic, on Tuesdays, Thursdays and Saturdays.

Mr. Turgeon stated "that the reason for the change is that the service on the freight train between Sherbrooke and Megantic is comparable, servicewise, to that provided by trains 202 and 203."

Mr. Adrien Nadeau, Reeve of the County of Frontenac, explained that between Scotstown and Megantic, the highway is hardly fit for traffic for about three weeks in the spring and dangerous in wintertime on account of ice and snow.

Mr. Henry Latulippe, M.P. for Compton-Frontenac, stated that several of the municipalities will be deprived of adequate service to Montreal if trains 202 and 203 are discontinued. According to him, a more reasonable rate would have produced increasing revenues and would have attracted travellers who cannot afford to pay the maximum fare. Mr. Latulippe also referred to the condition of highways which sometimes remain closed to all traffic for several days during the winter. Mr. Latulippe pleaded in favor of maintaining the train service between Sherbrooke and Megantic at least until such time as the highway system is improved and other means of transportation are added to the existing ones.

Mr. Findlay MacDonald, Secretary-Treasurer of the Town of Scotstown, stated that if these two trains are removed, Scotstown will have no passenger train service whatsoever. Scotstown is located 25 miles from Megantic. It has a population of 1100 people and there are surrounding towns like La Patrie,

Chartierville, Notre-Dame du Bois and Gould which suffered hardships during the period that these trains were discontinued. According to Mr. MacDonald, there would be more traffic if this train left Megantic in the morning and came back at night as the trend of traffic is towards the large cities.

Mr. Duncan McLeod, speaking for the Municipality of Milan, drives a school bus and explained the difficulties that he experienced travelling from Milan and Scotstown on roads covered with ice.

Mr. Albert Rivard, Counsel for the City of Sherbrooke, argued that on account of the considerable increase in highway traffic, it is preferable to travel by railway because it is safer and more comfortable. Mr. Rivard pointed out that if these two trains are discontinued, people from Megantic going to Sherbrooke or from Sherbrooke to Montreal will have to lose two days or else travel at very inconvenient hours as are experienced on trains 41 and 42.

In his argument, Mr. Paradis, Counsel for the Canadian Pacific Railways, pointed out that between Montreal and Sherbrooke, the means of transportation were as good as can possibly be found anywhere else in the country. He stated that the concern was between Sherbrooke and Megantic, which is a distance of sixty-eight miles. Mr. Paradis referred to the evidence with respect to the roads between Sherbrooke and Megantic and their conditions during certain times of the year. He also referred to the fact that there is a bus service between these two points. He argued, however, that the average number of passengers on these trains is not sufficient to enable the Company to operate at a decent return for this service. He concluded that the service should be discontinued because the public has given it up and if the Company continued operating it, it would incur a yearly deficit which it should not be obliged to carry.

Mr. Arsenault, Counsel for the Town of Farnham argued that the proposition of the Railway is premature because it was presented after an interruption of service of several months and following an increase in rates. He also argued that it is premature because train service will be needed to transport people from this area to EXPO '67 when the Railway would incur substantial revenues which might reduce the deficits of the present operations. Mr. Arsenault stated that the whole population of this area is requesting that trains 202 and 203 be maintained.

Explanations were given by Mr. Brink of the C.P.R. Research Department in respect of the estimated variable expenses of trains 202 and 203 as submitted on Exhibit No. 19. The company estimates that variable expenses for the constructive year 1965-66 will total \$221,200, including express costs of approximately \$5,000.

I have had a study made of these expenses, and I consider that for purposes of this Judgment, certain reductions should be made.

Approximately \$10,000 has been included in the cost of fuel, crew wages, R.D.C. repairs and Train other expenses, which the company has stated is to cover operating supervision and associated overhead charges related to the service. The figure has been developed through multiple regression analyses. I am not satisfied that all of this amount would be saved through discontinuance of trains 202 and 203, and so have made a reduction of \$7,800.

The company claimed that \$4,785 would be saved per annum in respect of the variable portion of road maintenance which had been calculated by multiple regression analysis. As in the case of overhead, I am not satisfied that this full amount should be allowed for purposes of this case, and so have reduced the estimate by \$2,400.

General and Communications expense was stated to be \$19,082 per annum. The company cost witness explained that approximately \$9,000 consisted of the pension contribution made by the company, the balance being accounting and law departments and various other indirect items which would be saveable on the longer term. While a certain amount of variability may be ascribed to these items, I am not satisfied that discontinuance of trains 202 and 203 will result in such a saving of general overhead as claimed, and so have made a reduction of \$5,000.

An amount of \$20,500 has been included in variable expense for cost of money. This has been based on the release of one RDC unit if the service were discontinued. The average net investment per RDC unit for the Canadian Pacific system as of January 1, 1965, was \$147,398, to which a rate of 11.4% before income taxes has been applied. This rate was also applied to the variable portion of investment in road property, calculated on a gross ton mile basis.

In past cases the Board has not recognized cost of money as an item of variable expense, although it has been considered in determining financial improvement based on a rate of 5%. I will accordingly apply a rate of 5% on the equipment, which will reduce cost of money on that portion by \$9,400. I am not satisfied, however, that any financial improvement would ensue to the company in respect of road property in the near future, and I will disallow \$3,700 as the cost of money on the investment in road property. The total cost of money calculated by the company in the amount of \$20,500 would, therefore, be reduced to \$7,400.

The effect of the foregoing adjustments is to decrease the total of variable expenses, including express, by \$35,700, from \$221,200 to \$185,500. Since the revenues for the constructive year were \$150,500, the annual saving from discontinuance of trains Nos. 202 and 203 would be \$35,000, to which would be added \$7,400 in determining financial improvement for purposes of this Judgment.

The main opposition to the proposed discontinuance of trains 202 and 203 is from the area between Sherbrooke and Megantic. This is understandable as the removal of these two trains would deprive the railway patrons in this area

of the only remaining local passenger trains serving stations between Megantic and Sherbrooke.

There is a local bus company operating in this area under the name of Transcar Bus Line. No witness appeared at the hearing to represent this company although the Company's timetable was filed by Mr. Walsh, General Passenger Agent of the Canadian Pacific Railway Company at Montreal.

The condition of the highways over which the Transcar Bus Line operates is the chief impediment to the dependability of the service. In some of the area the roadway is paved while in others it is a gravel surfaced roadway.

As an indication of the difficulties experienced in operating over these highways during the winter months, the evidence given by Mr. Duncan L. McLeod, who represented the Municipality of Milan at the hearing, is of some significance. At pages 9454 and 9455 of the transcript, Mr. McLeod stated as follows:

"I drive a school bus, and I leave Milan with ten children at a quarter to eight, arriving in Scotstown to meet the school bus that leaves for Bury at ten past eight. I was ten minutes late going down, which was remarkable, on account of the condition of the road. I turn right around, I also have a second contract hauling the Roman Catholic children to the Milan school. I headed right back at a quarter past eight, and it was twenty minutes to ten when I got to Milan, a distance of ten miles.

You might not realize it, due to the fact that we've heard so much about the good roads, but it was a solid mass of ice from Scotstown to the Village of Milan. As a matter of fact, I had to leave four children in the school bus, ranging from six years of age to ten years of age, the oldest. I had to leave them alone in the bus and go and get a truck to pull me over the icy roads. That is just a remark in regard to the condition of the road. You have to expect that from about now until some time in April.

I drive on those roads three times a day, three times down and three times up, five days a week, and once on Saturday, and it is no fun.

The remarks that I would like to make here are on behalf of not only the municipality of Milan but the whole region, from Sherbrooke to Megantic.

All the evidence given so far is orientated to the questions of dollars and cents. The human factor does not seem to enter into the question at all. The railroading passenger aspect of it should be considered as a normal and public service, instead of a 100 per cent commercial enterprise."

At page 9456 of the transcript, Mr. McLeod concluded with the following statement:

"Although we live in this section of the country from Sherbrooke to Megantic, we don't see why we should be discriminated against.

Our region is known as a poor, unproductive part of the country, but after all there are people living there, and they should be given every consideration as far as transportation in and out of this section is concerned, and we don't think too much of the bus service. We have always liked the Canadian Pacific Railways and we have always enjoyed the service they have given us until recently, and we would like to see this service continued."

In addition to the difficulties experienced by Mr. McLeod in operating a school bus between Milan and Bury, the testimony of other witnesses who appeared at the hearing confirmed this evidence. Firsthand information presented to the Board by its Inspectors following their review of the situation clearly indicates that the condition of the highways in this area represents one of the main features which mitigate against the establishment of a convenient and dependable local bus service.

Under the circumstances now prevailing, I am of the opinion that the local passenger train service cannot be discontinued without causing considerable inconvenience to the population located between Sherbrooke and Megantic.

The situation west of Sherbrooke is of course entirely different. There is no evidence before the Board which would indicate that the discontinuance of trains 202 and 203 between Montreal and Sherbrooke would result in serious inconvenience to the railway patrons in this area.

In concluding that Canadian Pacific should be required to continue providing a local passenger train service east of Sherbrooke to Megantic, I recognize that this can be accomplished by providing a substitute service between Montreal and Megantic through the use of trains 201 and 206 as proposed by some of the municipalities in this area.

The adoption of such a proposal would enable Canadian Pacific to reduce its overall costs relating to the provision of this service and permit the continuation of a local passenger train service between Sherbrooke and Megantic.

In consideration of what has been placed before us in this case, I am therefore prepared to allow Canadian Pacific to discontinue the operation of Trains 202 and 203 between Montreal and Megantic on the understanding that a local passenger train service will be provided between Sherbrooke and Megantic through the operations of Trains 201 and 206 between Megantic and Montreal instead of between Sherbrooke and Montreal as at present.

An Order will issue accordingly.

(SGD.) J.E. DUMONTIER

Ottawa, March 9, 1966.

I concur:

(SGD.) JOHN M. WOODARD

ORDER NO. 120131

WEDNESDAY, THE 9TH DAY OF
MARCH, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

*IN THE MATTER OF the proposed
discontinuance of Canadian Pacific
Railway Company's passenger trains
Nos. 202 and 203, operating between
Montreal and Megantic, in the Prov-
ince of Quebec:*

File No. 27563.297

UPON hearing the application at a sittings of the Board held in Sherbrooke, P.Q., on November 16th and 17th, 1965, in the presence of Counsel for the Canadian Pacific Railway Company, the City of Farnham, and the City of Sherbrooke, and representatives of the Brotherhood of Railway Trainmen, the Magog Chamber of Commerce, and the Sherbrooke Chamber of Commerce; Mr. J.P. Philbin, Cowansville, in person; the Secretary-Treasurer of the Town of Scotstown; Mr. Jean-Jacques Bertrand, Q.C., M.L.A., Missisquoi, in person; Mr. George Tickle, Union Carbide of Canada, in person; Mr. C.S. Douglas, Sutton, in person; Mr. Henry Latulippe, M.P., Compton-Frontenac, in person; Mr. G. Boulet, Councillor, Lac Megantic, in person; Mr. J.A. Roberge, Lac Megantic, in person; Mr. J.A. Nadeau, Reeve, County of Frontenac, in person, Mr. R.G. Hodge, Mayor, Cookshire, in person; Mr. Luc Bourque, Secretary-Treasurer, County of Frontenac, and Secretary-Treasurer of the Economic Development Council of the County of Frontenac; Mr. Walter Hodgeman, Eaton, in person; Mr. C.S. Gamache, Cookshire, in person; Mr. Duncan L. McLeod, Pro-Mayor of the Municipality of Milan, in person; Mr. Clifford Anderson, Bury, in person; and Mr. Conrad Camaraille, Industrial Commissioner, St. Jean; and upon reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Pacific Railway Company is authorized to discontinue the operation of trains Nos. 202 and 203 between Montreal and Megantic, in the Province of Quebec, provided a local passenger train service is provided between Sherbrooke and Megantic through the operations of trains Nos. 201 and 206 between Megantic and Montreal instead of between Sherbrooke and Montreal as at present.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

RELATIVEMENT à l'abandon projeté des trains de voyageurs nos 202 et 203 de la compagnie de chemin de fer du Pacifique-Canadien circulant entre Montréal et Mégantic, dans la province de Québec.

*Dossier n° 27563.297
le 9 mars 1966*

DEVANT:

J.-E. DUMONTIER
J.M. WOODARD

*commissaire en chef suppléant
commissaire*

ONT COMPARU:

J.-E. PARADIS, C.R. }
et
R.J. MADGE }
GUY ARSENAULT
ALBERT RIVARD, C.R.
J.P. PHILBIN
FINDLAY M. MACDONALD

*pour la compagnie de chemin de fer
du Pacifique-Canadien*

*pour la ville de Farnham
pour la ville de Sherbrooke
Cowansville, en personne
secrétaire-trésorier, ville de
Scotstown
représentant la Brotherhood of
Railway Trainmen
député provincial de Missisquoi
Union Carbide of Canada, en
personne*

L.E. BAKER

JEAN-JACQUES BERTRAND, C.R.
GEORGE TICKLE

*Sutton, en personne
Compton-Frontenac
Conseiller, Lac-Mégantic
Lac-Mégantic, en personne
préfet, comté de Frontenac
représentant la Chambre de
commerce de Magog
maire, Cookshire
secrétaire-trésorier, comté de
Frontenac, et secrétaire-trésorier
du Conseil du développement
économique du comté de Frontenac*

C.S. DOUGLAS
HENRY LATULIPPE, député
G. BOULET
J.-A. ROBERGE
J.-A. NADEAU
LORNE MACPHERSON

R.G. HODGE
LUC BOURQUE

WALTER HODGEMAN
C.-S. GAMACHE
HENRI BOURDEAU

DUNCAN L. McLEOD

CLIFFORD ANDERSON
CONRAD CAMARAIRE

Eaton, en personne
Cookshire, en personne
représentant la Chambre de commerce
de Sherbrooke
maire par intérim de la municipalité
de Milan
Bury, en personne
commissaire à l'expansion indus-
trielle, Saint-Jean

Audiences tenues à Sherbrooke les 16 et 17 novembre 1965.

JUGEMENT

DUMONTIER, commissaire en chef suppléant

Le 25 octobre 1964, la compagnie de chemin de fer du Pacifique-Canadien a discontinué l'exploitation des trains 202 et 203 qui circulaient entre Montréal et Mégantic. La discontinuation de l'exploitation de ces deux trains représentait une réduction du service de trains de voyageurs entre ces deux points et non un abandon complet de ce service. Par conséquent, la compagnie n'était pas tenue d'obtenir l'approbation de la Commission avant d'apporter un tel ajustement au service.

A la suite de la suppression de ces trains, la Commission a reçu des protestations de plusieurs des municipalités principales, y compris pratiquement toutes les agglomérations situées entre Sherbrooke et Mégantic. Ces protestations étaient appuyées par des chambres de commerce, des députés et d'autres parties intéressées. Dans les mémoires déposés auprès de la Commission on soutenait que la discontinuation de ces deux trains avait causé de graves inconvénients au public voyageur, particulièrement dans la région entre Sherbrooke et Mégantic.

Parmi les requêtes présentées au Pacifique-Canadien pour obtenir une amélioration de la situation qui avait résulté de l'abandon des trains 202 et 203 se trouvait une résolution adoptée par la ville de Lac-Mégantic. Dans cette résolution, il était proposé que le parcours des trains 201 et 206, circulant entre Montréal et Sherbrooke, soit prolongé pour assurer le service entre Montréal et Mégantic. La Commission a reçu une copie de cette résolution et a remarqué qu'elle était appuyée par d'autres municipalités de la région entre Sherbrooke et Mégantic.

M. Spence, avocat du Pacifique-Canadien, informait la Commission, le 15 décembre 1964, que la compagnie avait étudié cette proposition et l'avait rejetée en invoquant le fait que le trafic n'était pas suffisant.

Étant donné le nombre et la nature des plaintes qu'elle avait déjà reçues à ce moment, la Commission a ordonné à ses inspecteurs itinérants d'examiner cette question. L'enquête qui a suivi a comporté des entrevues avec des représentants des municipalités, un relevé des services assurés par les trains de voyageurs qui continuent de circuler dans la région ainsi que des autres moyens de transport public disponibles et de l'état des routes parallèles à la ligne du Pacifique-Canadien.

Cette enquête a démontré que la région la plus touchée par cette réduction du service de trains de voyageurs se trouve entre Sherbrooke et Mégantic. Le seul service de trains de voyageurs restant dans cette région était constitué par les trains 41 et 42 qui circulent entre Montréal et Saint-Jean (N.-B.). Ni l'un ni l'autre de ces trains ne fait d'arrêt entre Sherbrooke et Mégantic et, par conséquent, la suppression des trains 202 et 203 avait, en vérité, fait disparaître les derniers trains locaux de voyageurs qui desservaient les gares situées entre Sherbrooke et Mégantic.

Après la suppression de ce service local, la Commission a ordonné au Pacifique-Canadien de fournir des détails à l'appui de sa décision de supprimer le service. La compagnie a déposé auprès de la Commission les pièces à l'appui de sa cause le 10 mars 1965. Après une étude attentive des renseignements qui lui avaient été fournis, la Commission a rendu l'ordonnance n° 117030, datée du 19 mars 1965, par laquelle elle ordonnait au Pacifique-Canadien de rétablir les trains 202 et 203 au plus tard une semaine après la date de l'ordonnance. Dans l'intervalle, il a été décidé d'entendre la cause, ce qui fut fait à Sherbrooke (P.Q.) les 16 et 17 novembre 1965.

M. Burroughs, surintendant de la division de Farnham a déclaré, dans son témoignage, que les trains quotidiens 202 et 203, entre Montréal et Mégantic, arrêtent à LaSalle, Delson, Saint-Jean, Farnham, Foster, Eastray, Magog, Sherbrooke, Lennoxville, Cookshire, Scotstown, Nantes et Mégantic. Ces trains consistent en une voiture Budd, à air climatisé, qui peut transporter soixante-dix voyageurs et a un compartiment à bagages de dix-sept pieds. On ajoute une voiture en fin de semaine et les jours fériés ou lors d'occasions spéciales, suivant les besoins.

M. George Walsh, agent général du service des voyageurs, a déclaré dans son témoignage que le train 202 quitte Montréal à 8h.15 du matin et arrive à Mégantic à 12h.20 de l'après-midi; le train 203 quitte Mégantic à 2h.40 de l'après-midi et arrive à Montréal à 6h.50 du soir. M. Walsh a déclaré que les trains 41 et 42 circulent aussi chaque jour entre Montréal et Saint-Jean (N.-B.) via Mégantic. Le train 41 quitte Mégantic à 4h.25 du matin et arrive à Montréal à 9h. du matin et le train 42 quitte Montréal à 7h.35 du soir et arrive à Mégantic à 12h.05 du matin.

M. Walsh a aussi déposé, comme pièces, un indicateur des chemins de fer Nationaux du Canada montrant que cette compagnie exploite deux trains quotidiens de voyageurs et un train quotidien sauf le dimanche entre Sherbrooke et Montréal, via Saint-Hyacinthe, et un indicateur de la Voyageur Provincial Inc. (anciennement Transport Provincial) montrant que cette compagnie exploite plusieurs services quotidiens d'autobus sur l'autoroute entre Montréal et Sherbrooke. Il a aussi déposé l'indicateur de la Transcar Bus Line qui assure des services entre Sherbrooke et Mégantic. L'autobus quitte Mégantic à 8h. du matin chaque jour, sauf le dimanche, et arrive à Sherbrooke à 10h. du matin. Le samedi et le dimanche, l'autobus quitte Mégantic à 5h.35 du soir et arrive à Sherbrooke à 7h.25 du soir. Dans l'autre direction, l'autobus quitte Sherbrooke à 6h.15 du soir chaque jour, excepté le dimanche, et arrive à Mégantic à 8h.15 du soir. Chaque samedi, l'autobus quitte Sherbrooke à 12h.15 p.m. et arrive à Mégantic à 2h.15 p.m. Il y a aussi, le dimanche, un autobus qui quitte Sherbrooke à 9h.15 du soir et arrive à Mégantic à 11h.15 du soir. Ce service d'autobus dessert Bury, Scotstown, Milan et Nantes.

Une autre pièce déposée par M. Walsh indique que la Metropolitan Provincial Inc. exploite un service d'autobus entre Montréal, Farnham et Knowlton.

Suivant la déposition de M. Walsh, le prix du passage simple en voiture ordinaire de Montréal à Sherbrooke a varié au cours des années 1962 à 1965, comme il suit:

<u>Date d'entrée en vigueur</u>	<u>Sauf le vendredi et le dimanche</u>	<u>Vendredi et dimanche</u>
1 ^{er} nov. 1961 (semaine)	\$4.05	—
27 oct. 1963 (tarif-épargne)	2.30	\$2.90
15 avril 1964 (" ")	3.00	3.80
1 ^{er} sept. 1964 (semaine)	4.05	—
31 juillet 1965 (")	5.35	—

Le dernier prix de \$5.35 est établi au taux de 5c. le mille.

Le prix d'un passage simple en autobus entre Montréal et Sherbrooke, est de \$3.45, plus 25c. si l'autobus emprunte l'autoroute. Le prix d'un passage simple, par train, entre Sherbrooke et Mégantic, est de \$3.45 et par autobus de \$2.30.

Contre-interrogé par M. Arseneault, M. Walsh a admis qu'entre Montréal et Mégantic, un billet aller-retour coûte \$17.60 tandis qu'entre Montréal et Québec, pour la même distance, un billet aller-retour coûte \$8. Il a expliqué que la raison de cet écart est que le tarif appliqué entre Montréal et Québec est ce qu'on appelle un tarif concurrentiel. M. Arseneault a demandé à M. Walsh s'il pouvait, aux fins de comparaison, dire le prix du billet aller et retour entre

Montréal et Sherbrooke par les chemins de fer Nationaux du Canada. M. Walsh a répondu que ce prix est de \$2.60 les "jours rouges", de \$3.10 les "jours blancs" et de \$3.50 les "jours bleus".

Bien que ces audiences n'aient pas été tenues en vue de déterminer quelque aspect que ce soit des prix de passage demandés aux voyageurs des trains 202 et 203, mais pour déterminer si le chemin de fer du Pacifique-Canadien doit, ou non, être autorisé à supprimer les trains nos 202 et 203 entre Montréal et Mégantic, je ne puis m'empêcher de remarquer que le taux maximum permis, soit cinq cents le mille, ne semble pas, dans le cas présent, propre à augmenter le nombre de voyageurs de ces trains, si l'on tient compte de la très grande différence entre ces prix et ceux qui s'appliquent entre Montréal et Québec. J'estime que le service de Montréal à Sherbrooke est aussi concurrentiel que celui de Montréal à Québec.

Les pièces produites par M. Brown, analyste de recherches senior, indiquent que la majorité des voyageurs transportés le sont entre Farnham et Montréal, qu'une douzaine de personnes environ voyagent entre Montréal et Sherbrooke et un peu plus entre Sherbrooke et Farnham, mais que la plus grande partie du transport de voyageurs se fait dans le secteur le plus à l'ouest du parcours des trains.

M. Brown a déposé les pièces nos 16 et 19 qui donnent les recettes et dépenses annuelles d'exploitation des trains 202 et 203 entre Montréal et Mégantic pour une année établie par déduction et commençant le 1^{er} avril 1965. Ces pièces ont été révisées par la suite, soit le 18 novembre 1965, afin qu'y paraissent les recettes et dépenses afférentes aux messageries transportées par ces trains. Ces pièces sont données ci-après:

Pièce n° 16 révisée

Recettes et frais variables estimatifs Trains 202 et 203 entre Montréal et Mégantic pour une année établie par déduction et commençant le 1^{er} avril 1965

Recettes brutes

Prix de passage	\$142,900
Messageries	7,600
TOTAL	\$150,500

Frais

Frais d'exploitation annuels estimatifs des trains 202 et 203	\$216,200
Compagnie de messageries	5,000
TOTAL	\$221,200

Gains annuels nets (déficit)	\$ 70,700
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Frais variables estimatifs
Trains 202 et 203 entre Montréal et Mégantic
pour une année établie par déduction et commençant le 1^{er} avril 1965

Postes de dépense

Combustible	\$ 14,906
Salaires des mécaniciens	25,164
Salaires du personnel de train	35,830
Réparation des voitures automotrices	69,781
Autres dépenses de train	18,314
Frais variables d'entretien de la voie	4,785
Frais divers et communications	19,082
Dépréciation du matériel	7,910
Coût de l'argent – voitures	16,803
– voie	3,680
Compagnie de messageries	4,966
TOTAL	\$221,221
DISONS	<u>\$221,200</u>

M. W.-Armand Turgeon, surintendant des Messageries du Pacifique-Canadien, a expliqué dans son témoignage que les trains 202 et 203 ne prennent plus les messageries et que celles-ci sont transportées par le train de marchandises circulant entre Sherbrooke et Mégantic, partant de Sherbrooke le lundi, le mercredi et le vendredi et de Mégantic le mardi, le jeudi et le samedi.

M. Turgeon a déclaré que "ce changement a été effectué parce que le service de ces messageries assuré par le train de marchandises entre Sherbrooke et Mégantic est comparable à celui des trains 202 et 203."

M. Adrien Nadeau, préfet du comté de Frontenac, a expliqué que la route entre Scotstown et Mégantic est à peine passable durant environ trois semaines au printemps et qu'elle est dangereuse en hiver en raison de la neige et de la glace.

M. Henry Latulippe, député de Compton-Frontenac, a déclaré que plusieurs des municipalités seront privées d'un service convenable à destination de Montréal si les trains 202 et 203 sont supprimés. Selon lui, un taux plus raisonnable aurait augmenté les recettes en attirant les voyageurs qui ne peuvent pas payer le taux maximum. M. Latulippe a aussi mentionné l'état des routes qui parfois demeurent fermées à la circulation pour plusieurs jours durant l'hiver. M. Latulippe a plaidé pour la continuation du service de trains entre Sherbrooke et Mégantic au moins jusqu'à ce que le réseau routier soit amélioré et que d'autres moyens de transport soient disponibles.

M. Findlay MacDonald, secrétaire-trésorier de la ville de Scotstown, a déclaré que si ces deux trains sont supprimés, Scotstown n'aura plus aucun service de trains de voyageurs. Cette agglomération est située à 25 milles de Mégantic. Elle a une population de 1,100 personnes. Des agglomérations environnantes comme La Patrie, Chartierville, Notre-Dame-du-Bois et Gould ont aussi subi des inconvénients pendant la période durant laquelle ces trains n'ont pas circulé. Selon M. MacDonald, il y aurait plus de voyageurs si ce train quittait Mégantic le matin et y revenait le soir vu que la tendance du trafic est en direction des grandes villes.

M. Duncan McLeod, qui parlait au nom de la municipalité de Milan, conduit un autobus scolaire et il a expliqué les difficultés qu'il rencontre sur la route entre Milan et Scotstown lorsque celle-ci est recouverte de glace.

M. Albert Rivard, avocat de la ville de Sherbrooke, a soutenu qu'en raison de l'augmentation importante du trafic routier, il vaut mieux voyager par le train car celui-ci offre plus de sécurité et de confort. Il a souligné que si ces deux trains sont supprimés, les gens de Mégantic qui vont à Sherbrooke ou ceux de Sherbrooke qui vont à Montréal auront le choix entre perdre deux jours ou voyager aux heures très peu commodes des trains 41 et 42.

Dans son plaidoyer, M. Paradis, avocat du chemin de fer du Pacifique-Canadien, a signalé qu'entre Montréal et Sherbrooke, les moyens de transport sont aussi bons qu'en n'importe quelle autre région du pays. Il a déclaré que le parcours en cause est entre Sherbrooke et Mégantic et qu'il représente une distance de soixante-huit milles. M. Paradis a mentionné les témoignages concernant les routes entre Sherbrooke et Mégantic et leur état à certaines périodes de l'année. Il a aussi mentionné le fait qu'il existe un service d'autobus entre ces deux points. Toutefois, il a soutenu que le nombre moyen des voyageurs de ce train n'est pas suffisant pour permettre à la compagnie de retirer des recettes convenables de l'exploitation de ce service. Il a conclu que le service devrait être supprimé parce que le public l'a abandonné et que si la compagnie en continue l'exploitation, elle subira un déficit annuel qu'elle ne devrait pas être obligée de supporter.

M. Arsenault, avocat de la ville de Farnham, a soutenu que le projet de la compagnie de chemin de fer est prématuré, étant donné qu'il est présenté après une interruption de service de plusieurs mois et après une majoration des tarifs. Une autre raison pour laquelle il a dit juger ce projet prématuré, c'est que, à son avis, un service de trains sera nécessaire pour le transport des voyageurs de cette région qui se rendront à l'EXPO 1967, ce qui permettra au Chemin de fer de réaliser des recettes importantes qui pourraient réduire les déficits de l'exploitation actuelle. M. Arsenault a affirmé que toute la population de la région demande le maintien des trains 202 et 203.

M. Brink, du Service de recherches du Pacifique-Canadien, a donné des explications concernant les dépenses variables estimatives des trains 202 et 203 présentées dans la pièce n° 19. La compagnie estime que les dépenses variables pour l'année 1965-1966 établie par déduction, s'élèveront à \$221,200, y compris les frais de messageries s'élevant à environ \$5,000.

Après avoir fait faire une étude de ces dépenses, j'estime qu'aux fins du présent jugement, il y a lieu de faire certaines réductions.

Une somme d'environ \$10,000 a été incluse dans le coût du combustible, des salaires des équipes, des réparations aux voitures automotrices et des autres dépenses de train, somme qui, au dire de la compagnie, doit couvrir les frais de surveillance et d'autres frais généraux associés relatifs au service. La compagnie en est venue à fixer ce chiffre à la suite de multiples analyses régressives. Je ne suis pas certain que les économies qui seraient réalisées du fait de la suppression des trains 202 et 203 atteindraient cette somme. J'ai donc effectué une réduction de \$7,800.

La compagnie a prétendu qu'elle épargnerait \$4,785 par année en ce qui concerne la partie variable de l'entretien de la voie, ce montant ayant été calculé par voie de multiples analyses régressives. Comme dans le cas des frais généraux, je n'estime pas que ce montant doit être alloué en entier aux fins de la cause à l'étude, et je l'ai par conséquent réduit de \$2,400.

Les frais divers et de communications ont été établis à \$19,082 par année. Le témoin de la compagnie en ce qui concerne les prix de revient a expliqué que les contributions de la compagnie à l'égard des pensions s'élevaient à environ \$9,000, le solde étant formé de frais de comptabilité et de contentieux et de diverses autres dépenses indirectes, qui seraient évitables à long terme. Bien qu'une certaine variabilité puisse être attribuée à ces dépenses, je ne suis pas certain que la suppression des trains 202 et 203 entraînerait des économies aussi considérables au chapitre des frais généraux divers. J'ai donc réduit le montant de \$5,000.

Une somme de \$20,500 a été incluse dans les dépenses variables pour le coût de l'argent. Ce montant est fondé sur le retrait d'une unité automotrice diesel advenant la suppression du service. Au 1^{er} janvier 1965, chaque unité automotrice diesel représentait pour le réseau du Pacifique-Canadien une mise de fonds nette moyenne de \$147,398, à laquelle a été appliqué un taux de 11.4 p. 100 avant l'impôt sur le revenu. Ce taux était également appliqué à la partie variable de la mise de fonds dans la voie, le calcul se fondant sur la tonne-mille brute.

Dans les causes antérieures, la Commission ne reconnaissait pas le coût de l'argent comme un article de dépenses variables bien qu'il en ait été tenu compte dans la détermination de l'amélioration financière, à un taux de 5 p. 100.

J'appliquerai donc un taux de 5 p. 100 au matériel, ce qui réduira de \$9,400 le coût de l'argent pour cette partie. Je ne crois pas cependant qu'en ce qui concerne la voie, la compagnie bénéficierait dans un avenir prochain d'un avantage financier; par suite, je réduis de \$3,700 le coût de l'argent pour la mise de fonds dans la voie. Le coût total de l'argent que la compagnie a estimé à \$20,500, se trouvera donc réduit à \$7,400.

Les redressements mentionnés auront donc pour effet de diminuer de \$35,700 le total des dépenses variables, y compris celles qui concernent les messageries, les réduisant ainsi de \$221,200 à \$185,500. Comme les recettes pour l'année établie par déduction étaient de \$150,500, l'épargne annuelle résultant de la suppression des trains 202 et 203 serait de \$35,000, montant auquel on ajouterait la somme de \$7,400 en déterminant l'amélioration financière aux fins du présent jugement.

La principale opposition à la suppression projetée des trains 202 et 203 vient de la région située entre Sherbrooke et Mégantic. Cela se comprend, étant donné que la suppression de ces deux trains priverait les usagers du chemin de fer de cette région des seuls trains locaux de voyageurs qui desservent encore les stations entre Mégantic et Sherbrooke.

Il existe une compagnie locale d'autobus, la Transcar Bus Line, qui dessert cette région. Aucun témoin ne s'est présenté à l'audience pour représenter cette compagnie, bien que l'indicateur de ladite compagnie ait été déposé par M. Walsh, agent général des services de voyageurs de la compagnie de chemin de fer du Pacifique-Canadien à Montréal.

L'état des routes qu'utilise la Transcar Bus Line est la principale raison qui empêche cette compagnie de donner un service sur lequel on puisse compter. Certaines parties de la route ont un revêtement en dur alors que d'autres parties ont un revêtement en gravier.

Le témoignage de M. Duncan L. McLeod, qui représentait la municipalité de Milan lors de l'audience, illustre bien les difficultés rencontrées par ceux qui utilisent ces routes pendant les mois d'hiver. M. McLeod a déclaré ce qui suit (pages 9454 et 9455 de la transcription):

“Je conduis un autobus scolaire. Je quitte Milan avec dix enfants à huit heures moins un quart, et j'arrive à Scotstown pour y rencontrer l'autobus qui part pour Bury à huit heures dix. Je suis arrivé dix minutes en retard en descendant, ce qui était remarquable, étant donné l'état de la route. Je fais demi-tour; j'ai aussi un second contrat pour transporter les enfants catholiques à l'école de Milan. Je suis reparti à huit heures et quart, et il était dix heures moins vingt quand je suis arrivé à Milan qui est à une distance de dix milles.

Vous ne pouvez peut-être pas vous en faire facilement une idée, car on entend tellement parler des belles routes, mais ce n'était qu'une étendue de glace à partir de Scotstown jusqu'au village de Milan. De fait, il m'a fallu laisser dans l'autobus scolaire quatre enfants âgés de six à dix ans. J'ai dû les laisser seuls dans l'autobus pour aller chercher un camion afin de me faire remorquer sur la route recouverte de glace. Ceci n'est qu'une observation sur l'état de la route. On peut s'attendre à cela à partir d'à peu près ce temps-ci jusqu'en avril.

Je parcours ces routes trois fois par jour, trois fois en descendant et trois fois en montant, cinq jours par semaine, et une fois le samedi, et ce n'est pas drôle.

Je désire faire ici certaines remarques au nom, non seulement de la municipalité de Milan, mais de toute la région comprise entre Sherbrooke et Mégantic.

Tous les témoignages donnés jusqu'à présent se résument à une question de dollars et de cents. Le facteur humain ne semble pas du tout entrer en ligne de compte. Le service, envisagé du point de vue des usagers des trains, doit être considéré comme un service normal et public au lieu d'être considéré comme une entreprise 100 p. 100 commerciale."

M. McLeod conclut avec la déclaration suivante (page 9456 de la transcription):

"Quoique nous vivions dans cette partie du pays, entre Sherbrooke et Mégantic, nous ne voyons pas pourquoi nous recevions un traitement inférieur.

Notre région est connue pour être une partie pauvre et improductive du pays, mais après tout il y a des gens qui y vivent, et ils doivent recevoir toute l'attention voulue en ce qui a trait au transport à l'intérieur et hors de cette région et nous ne sommes pas entichés du service d'autobus. Nous avons toujours aimé le chemin de fer du Pacifique-Canadien, nous avons toujours su apprécier le service qu'il nous donnait jusqu'à ces derniers temps, et nous voudrions que ce service soit continué."

Le témoignage donné par M. McLeod sur les difficultés rencontrées dans l'exploitation d'un autobus scolaire entre Milan et Bury a été confirmé par les dépositions d'autres témoins. Les renseignements de première main présentés à la Commission par ses inspecteurs à la suite de l'examen qu'ils ont fait de la situation indiquent clairement que l'état des routes de cette région constitue l'un des principaux facteurs qui empêchent l'établissement d'un service local d'autobus qui soit commode et sur lequel on puisse compter.

Dans les circonstances actuelles, j'estime que le service local de trains de voyageurs ne peut pas être discontinué sans causer des inconvénients considérables à la population de la région située entre Sherbrooke et Mégantic.

La situation à l'ouest de Sherbrooke est évidemment entièrement différente. La Commission n'a pas reçu de preuves indiquant que la suppression des trains 202 et 203 entre Montréal et Sherbrooke causerait de graves inconvénients aux usagers de cette région.

En concluant que le Pacifique-Canadien devrait être requis de continuer à assurer un service local de trains de voyageurs à l'est de Sherbrooke jusqu'à Mégantic, je reconnais que cela peut se faire en assurant un service de remplacement entre Montréal et Mégantic au moyen des trains 201 et 206 comme l'avaient proposé certaines des municipalités de la région.

L'adoption de cette proposition permettrait au Pacifique-Canadien de réduire l'ensemble des frais se rapportant à ce service et de continuer à assurer un service local de trains de voyageurs entre Sherbrooke et Mégantic.

En considération des faits qui nous ont été soumis dans cette cause, je suis disposé à permettre au Pacifique-Canadien de discontinuer l'exploitation des trains 202 et 203 entre Montréal et Mégantic à condition qu'il assure un service local de trains de voyageurs entre Sherbrooke et Mégantic en exploitant les trains 201 et 206 entre Mégantic et Montréal au lieu de les exploiter entre Sherbrooke et Montréal comme présentement.

Une ordonnance sera rendue en conséquence.

(Signé) J.-E. Dumontier

J'agrée

(Signé) J.M. Woodard

ORDONNANCE N° 120131

MERCREDI LE 9 MARS 1966

J.-E. DUMONTIER,
commissaire en chef suppléant
J.M. WOODARD,
commissaire

RELATIVE au projet de suppression des trains de voyageurs nos 202 et 203 de la Compagnie de chemin de fer du Pacifique-Canadien exploités entre Montréal et Mégantic, dans la province de Québec:

Dossier n° 27563.297

APRÈS audition de la requête aux séances de la Commission tenues à Sherbrooke (P.Q.) les 16 et 17 novembre 1965, en présence des avocats de la Compagnie de chemin de fer du Pacifique-Canadien, de la ville de Farnham et de la ville de Sherbrooke et des représentants de la Brotherhood of Railway Trainmen, de la Chambre de commerce de Magog et de la Chambre de commerce de Sherbrooke; de M. J.P. Philbin, de Cowansville, en personne; du secrétaire-trésorier de la ville de Scotstown; de M. Jean-Jacques Bertrand, c.r., député provincial de Missisquoi, en personne; de M. George Tickle, de la Union Carbide of Canada, en personne; de M. C.S. Douglas, de Sutton, en personne; de M. Henri Latulippe, député fédéral de Compton-Frontenac, en personne; de M. G. Boulet, conseiller de Lac-Mégantic, en personne; de M. J.A. Roberge, de Lac-Mégantic, en personne; de M. J.-A. Nadeau, préfet du comté de Frontenac, en personne; de M. R.G. Hodge, maire de Cookshire, en personne; de M. Luc Bourque, secrétaire-trésorier du comté de Frontenac et secrétaire-trésorier du Conseil de développement économique du comté de Frontenac; de M. Walter Hodgeman, d'Eaton, en personne; de M. C.-S. Gamache, de Cookshire, en personne; de M. Duncan L. McLeod, maire par intérim de la municipalité de Milan, en personne; de M. Clifford Anderson, de Bury, en personne; et de M. Conrad Camarais, commissaire industriel, de Saint-Jean; et après lecture des pièces déposées—

IL EST PAR LES PRÉSENTES ORDONNÉ CE QUI SUIT:

La Compagnie de chemin de fer du Pacifique-Canadien est autorisée à discontinuer le service des trains nos 202 et 203 entre Montréal et Mégantic, dans la province de Québec, à condition d'assurer un service local de trains de voyageurs entre Sherbrooke et Mégantic en exploitant les trains nos 201 et 206 entre Mégantic et Montréal au lieu de les exploiter entre Sherbrooke et Montréal comme à présent.

Le Commissaire en chef suppléant,
J.-E. DUMONTIER

56 B. T. C.

~~Canada~~ (The) Board of

~~Transport Commissioners for Canada~~

Judgments, Orders, Regulations and Rulings

THE MATTER OF the application of Canadian National Railways for an Order authorizing the abandonment of that portion of their Centreville Subdivision from Fredericton, (mile 71.5) to Woodstock, (mile 129.7), all in the Province of New Brunswick, a total distance of 58.2 miles.

AND THE MATTER OF the application of the Canadian Pacific Railway Company for an Order authorizing the abandonment of that portion of its Southampton Subdivision between mile 9.25 to the end of steel at mile 12.6 all in the Province of New Brunswick, a total distance of 3.35 miles.

Files Nos. 39310.143

39309.76

March 2, 1966

BEFORE:

R. KERR, Q.C.,
J.E. DUMONTIER,
J.M. WOODARD,

Chief Commissioner.
Deputy Chief Commissioner.
Commissioner.

APPEARANCES:

H.J.G. PYE,
and
JOHN SCHILLER }
WALLACE D. MACAULAY,

for Canadian National Railways.

*for New Brunswick Electric Power
Commission.*

*for Canadian Pacific Railway
Company.*

R.J. MADGE,

HEARD AT FREDERICTON N.B., MARCH 2, 1966.

ORAL JUDGMENT

THE CHIEF COMMISSIONER: We have known for some months that the Mactaquac Power Project would involve the flooding of some railway trackage. Then in December of last year Canadian National Railways filed its formal

application seeking an order of the Board authorizing abandonment of a portion of its Centreville Subdivision. Subsequently Canadian Pacific Railway Company filed its formal application for an order authorizing abandonment of a portion of its Southampton Subdivision. In accordance with our usual practice we sent officers of our engineering and operation branches to the area concerned to investigate the applications. They reported in due course to the Board. We also notified interested parties of the filing of the applications and gave them an opportunity to make submissions, and notices of this hearing were sent out. Now we have come here and heard all who indicated their wish to give evidence or make representations.

The railways and the New Brunswick Electric Power Commission have stressed the desirability, even the necessity, of an early decision by the Board. Having regard to the consideration that we have given to the matter before we came here and the nature of the applications and evidence in support of them and the relatively limited opposition either on the Board's file or at this hearing, we consider that we can and that we should give our decision now.

I do not need to outline the evidence at length. It is of record in any event. Nor do I need to outline the development of the Mactaquac power project. It is not merely in the planning stage, it is well advanced. It is a fact. It is a project that is estimated to cost about \$114 million and is designed to be of benefit to the Province of New Brunswick.

The project will flood about 29 miles of C.N.R. trackage and a little over three miles of Canadian Pacific trackage. The continuation of the affected trackage is inconsistent with the completion of the Mactaquac project. In our opinion there is no valid cause for maintaining the trackage and by reason thereof obstructing the development of the power project and the continuous existence of the trackage is not possible if the power project is to be completed. The trackage must give way to a superior public use; the use of the railway properties for the purpose of the power project.

Consideration has been given to possible relocation of the trackage that will be flooded. The cost of relocation of the C.N.R. trackage, about 29 miles, has been estimated at about \$12 million or up to \$15 million if construction of bridges on the Trans Canada Highway is added to the cost of relocating the railway trackage. This raises the question whether relocation of the trackage at that cost or a cost in that vicinity is justifiable.

We have heard the evidence in respect of traffic carried over the C.N.R. trackage proposed for abandonment. The evidence of Canadian National was that traffic generated on the Fredericton-Woodstock trackage contributes about \$68,000 to overhead based on the 12 months' period November 1, 1960 to October 31, 1961.

Evidence was also given in respect of other available rail and highway services in the area. Highway No. 2 closely parallels the C.N.R. line and will be constructed to Trans Canada Highway standards. Generally speaking there are Canadian Pacific lines on both sides of the river in the area affected.

An agreement has been reached between the C.N.R. and Canadian Pacific whereby the C.N.R. will operate its trains over Canadian Pacific's Shogomoc and Gibson Subdivisions between Woodstock and South Devon and handle the Woodstock-Centreville traffic over these Canadian Pacific lines.

The Canadian National trackage proposed for abandonment serves a sparsely settled mixed farming and lumbering area with a population of about twelve to thirteen thousand people. Train service consists of a fourth class freight train. There is no passenger, l.c.l. freight or express service or no telegraph service on the line. Abandonment will displace some seven railway maintenance employees who may exercise their seniority rights.

The applications are supported by the Government of the Province of New Brunswick and the New Brunswick Electric Power Commission.

We see no good reason to drastically reduce or disallow the cost figures presented by Canadian National or to increase substantially its estimates of traffic revenues and the contribution to overhead that traffic generated on the Fredericton-Woodstock line would make. Such modifications as we might be disposed to make would not materially change the situation.

I might just say here that in railway abandonment cases the various railways that come under our jurisdiction from time to time have filed applications for abandonment and have given cost figures and sometimes we find good reason to disallow some of the figures presented or to modify the net result in one way or another.

We also see no good reason to conclude that relocation of the 29 miles of Canadian National trackage that is to be flooded is required in the interests of the shippers using the Fredericton-Woodstock line or the communities served by that line, having regard to the nature of the traffic and the area served, the alternative railway and highway facilities, the proposed use by Canadian National of Canadian Pacific's Woodstock-South Devon trackage and the cost of relocation of the trackage that will be flooded.

I need say little about the three miles or so of Canadian Pacific's trackage that will be flooded. Its abandonment presents no serious problem or inconvenience to the public.

May I recapitulate what I have said and what we have decided on?

First, the trackage to be flooded cannot be allowed to remain. It must give way to a superior use, the power project.

Second, the public interest does not require relocation of the Canadian National trackage that will be flooded.

Third, abandonment of the Canadian National's Fredericton-Woodstock line and the several miles of Canadian Pacific's trackage the trackage for which abandonment has been sought, will not cause serious loss or inconvenience to shippers or communities or the area affected.

We therefore grant the applications for abandonment. Abandonment may take place after posting of notice for 15 days in stations on the trackage to be abandoned; and when abandonment has actually taken place the companies shall notify the Board.

This leave to abandon is subject to fulfilment by Canadian National Railway of the undertaking given by its Commission counsel here today that railway service will be maintained to Pokiok until Southampton Contractors Limited moves its plant to a new location not later than August 1st, 1966.

When we get back to Ottawa, we will issue orders accordingly.

Perhaps this oral judgment that I have read from scribbled notes may have omitted something of importance that counsel would like me to refer to, and if so I would be glad to hear counsel in that respect now.

MR. MACAULAY: It is very satisfactory from the point of view of the Power Commissioner, sir.

MR. PYE: The same insofar as Canadian National is concerned, sir.

MR. MADGE: And with respect to the C.P.R.

THE CHIEF COMMISSIONER: Mr. Hoyt, you are the last one.

Very well, then, that concludes the hearing. I wish to thank counsel for the excellent presentation made and the expedition that they showed in completing the various representations and their evidence in this one day.

— FREDERICTON SITTINGS CONCLUDED —

ORDER NO. 120126

**TUESDAY, THE 8TH DAY OF
MARCH, A.D. 1966.**

ROD. KERR, Q.C.,

Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

J.M. WOODARD,

Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company, as amended, for an Order authorizing the abandonment of that portion of its Southampton Subdivision between mile 9.25 to the end of steel at mile 12.6, all in the Province of New Brunswick:

File No. 39309.76

UPON hearing the matter at Fredericton, New Brunswick, on March 2, 1966, in the presence of counsel for Canadian Pacific Railway Company, New Brunswick Electric Power Commission, Canadian National Railways, the Municipality of York and Southampton Contractors, Ltd., and pursuant to oral Judgment given at the hearing —

IT IS HEREBY ORDERED AS FOLLOWS:

1. Leave is given to Canadian Pacific Railway Company to abandon operation of that portion of its Southampton Subdivision between mile 9.25 to the end of steel at mile 12.6 all in the Province of New Brunswick, after posting up of notice for at least 15 days in the station on the portion to be abandoned.

2. Canadian Pacific Railway Company shall notify the Board of actual abandonment of operation as and when it takes place.

(SGD) ROD. KERR,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120128

**TUESDAY, THE 8TH DAY OF
MARCH, A.D. 1966.**

ROD. KERR, Q.C.,

Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

J.M. WOODARD,

Commissioner.

IN THE MATTER OF the application of Canadian National Railways for an Order authorizing the abandonment of that portion of their Centreville Subdivision from Fredericton, (mile 71.5) to Woodstock (mile 129.7), all in the Province of New Brunswick, a total distance of 58.2 miles:

File No. 39310.143

UPON hearing the matter at Fredericton, New Brunswick, on March 2, 1966, in the presence of counsel for Canadian National Railways, New Brunswick Electric Power Commission, Canadian Pacific Railway Company, the Municipality of York and Southampton Contractors, Ltd., and pursuant to oral Judgment given at the hearing—

IT IS HEREBY ORDERED AS FOLLOWS:

1. Leave is given to Canadian National Railways to abandon operation of that portion of its Centreville Subdivision from Fredericton (mile 71.5) to Woodstock (mile 129.7), all in the Province of New Brunswick, after posting up of notice for at least 15 days in the stations on the portion to be abandoned.
2. The leave hereby given is subject to maintenance of freight service by Canadian National Railways to Pokiok, N.B., until Southampton Contractors, Ltd., moves its plant to a new location not later than August 1, 1966.
3. Canadian National Railways shall notify the Board of actual abandonment of operation as and when it takes place.

(SGD) ROD. KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

IN THE MATTER OF the allocation of the balance of the cost of installation and of the cost of maintenance of the automatic protection at the crossing of King Street and the railway of the Canadian Pacific Railway Company, in the Town of Hartland, in the Province of New Brunswick, at mileage 64.14 Shogomoc Subdivision:

AND IN THE MATTER OF Order No. 117890, dated June 30th, 1965.

File No. 9437.1062

March 4, 1966

BEFORE:

R. KERR, Q.C.
J.E. DUMONTIER,
J.M. WOODARD,

*Chief Commissioner.
Deputy Chief Commissioner.
Commissioner.*

APPEARANCES:

R.J. MADGE,

TURNERY JONES,

*for Canadian Pacific Railway
Company.
for Town of Hartland.*

HEARD AT HARTLAND N.B. ON MARCH 4, 1966.

ORAL JUDGMENT

THE CHIEF COMMISSIONER: My colleagues and I have discussed the matter and we have reached a decision.

Mr. Madge has put the case very forcibly on behalf of Canadian Pacific. He has spoken of the uniformity that the Board seeks to achieve throughout Canada in the matter of apportionment of the cost of crossing protection, and he has left nothing unsaid on behalf of his company; and Mr. Jones has also put forward very forcefully all the arguments that can be made on behalf of the town.

Mr. Madge has said that it would be undesirable to create a precedent by relieving the town entirely from any portion of the cost. However, that really would not be a precedent. There is no rule so far as I can recall that the Board has strictly adhered to in all cases of apportionment of cost of crossing protection. The Board has endeavoured to look at each individual situation and most of them fall into a general pattern, whereby a portion of the costs is put on the highway authority, a portion on the railway and a portion on The Railway Grade

Crossing Fund, but there have been exceptions and some of the exceptions are not very far from Hartland.

As a matter of fact, in the much larger city of Saint John, New Brunswick within the last few years there was a crossing there which had been protected for many years by three manually controlled electric gates and in that particular case the cost had been borne entirely by Canadian National Railways. Then automatic flashing light signals were installed in place of the manually controlled gates, and I find that in that case the Board ordered that 80 per cent of the cost of installing the new protection would be paid out of The Railway Grade Crossing Fund, and the remainder of the cost of installation, as well as the cost of maintenance and operation, would be borne and paid by Canadian National Railways. So I just cite that one instance to show that there have been cases somewhat similar to this in the Province of New Brunswick before now and that if the Board were to relieve the town entirely from bearing any portion of the cost it would not be a precedent, it would not be the first case of its kind.

The Board thinks in this case that the new protection does not add very substantially to the protection that the public has been receiving in the past. The public had 24 hour protection at the crossing before and it will have 24 hours protection at the crossing in the future. It is perhaps possible that the protection in the future will be more certain than the protection that was there in the past because the previous protection depended upon manual operation whereas the new protection is automatic. However, sometimes automatic protection fails, it is hard to speak of the future in that respect with any great certainty. But we do think that by and large the public using the crossing was protected before adequately. The crossing has no bad record of accidents.

We also think that the C.P.R. will have some benefit from the new protection. It will not have to employ employees to operate the protection, it will be operated automatically, and perhaps will speed up train operation. So that so far as the benefit is concerned we think the greater benefit will be to the company rather than to the public using the crossing.

There is also the fact that the C.P.R. in the past has borne the cost of the protection and while that is not an absolute reason why it should continue to do so, nevertheless it is a fact to be taken into consideration by the Board.

The Board has therefore decided that it will not change the status quo that has prevailed in the past. Canadian Pacific bore the cost in the past and we do not feel that the situation is such here in Hartland that the town should be called upon to bear any part of the cost of installing the protection or of the cost of maintenance.

Therefore, our order will be that the balance of the cost of installation after the grant of 80 per cent from The Grade Crossing Fund will be borne by Canadian

Pacific and Canadian Pacific will bear the cost of maintenance. A formal order will be issued after we get back to Ottawa.

— HARTLAND SITTINGS CONCLUDED —

ORDER NO. 120127

**TUESDAY, THE 8TH DAY OF
MARCH, A.D. 1966.**

ROD. KERR, Q.C.,

Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

J.M. WOODARD,

Commissioner.

IN THE MATTER OF the allocation of the balance of the cost of installation and of the cost of maintenance of the automatic protection at the crossing of King Street and the railway of the Canadian Pacific Railway Company, in the Town of Hartland, in the Province of New Brunswick, at mileage 64.14 Shogomoc Subdivision:

AND IN THE MATTER OF Order No. 117890, dated June 30, 1965:

File No. 9437.1062

UPON hearing the matter at Hartland, New Brunswick, on March 4, 1966, in the presence of counsel for Canadian Pacific Railway Company and the Town of Hartland, and pursuant to oral Judgment given at the hearing –

IT IS HEREBY ORDERED AS FOLLOWS:

The balance of the cost of installing the automatic protection at King Street, in the Town of Hartland, N.B., ordered by the Board in its Order 117890, after the grant from The Railway Grade Crossing Fund towards such cost, and the cost of maintenance and operation of the said protection, shall be borne by Canadian Pacific Railway Company.

(SGD) ROD. KERR,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

Canada
The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 120109

**FRIDAY, THE 4TH DAY OF
MARCH, A.D. 1966.**

W.R. IRWIN,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of Yankcanuck Steamships Lim-
ited for a licence under section 10
of the Transport Act:*

File No. 42076.48

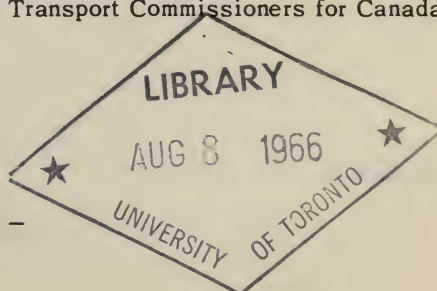
IT IS HEREBY ORDERED AS FOLLOWS:

Licence No. C.T.C. (WT) No. 447 is issued to Yankcanuck Steamships Limited licensing for the year 1966 the following ships to transport iron or steel articles, as listed under the distinctive heading "IRON OR STEEL" in Canadian Freight Classification No. 21, C.T.C. No. 1681, between all ports or places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay) and Superior, and their connecting waters, including the St. Lawrence River and its tributaries, as far seaward as the west end of the Island of Orleans:—

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
S.S. Manzutti	145462	1528
S.S. Mancox	145465	1550
M.V. Yankcanuck	318683	3280

(SGD) W.R. IRWIN,
Commissioner,

The Board of Transport Commissioners for Canada.



ORDER NO. 120112

FRIDAY, THE 4TH DAY OF
MARCH, A.D. 1966.

W.R. IRWIN,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of Charles Sanders, hereinafter
called the "Applicant", for a licence
under section 10 of the Transport
Act:*

File No. 42076.45

IT IS HEREBY ORDERED AS FOLLOWS:

Licence C.T.C. (W.T.) 446 is issued to the Applicant for the year 1966 licensing the following ships to transport goods between all ports and places in Canada accessible by navigation on Great Slave Lake and the Slave River, Fort Smith and north thereof, and the Mackenzie River:

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Guy	158894	27
S.T. Barge 103	173702	141
S.T. Canollet	193723	42

(SGD) W.R. IRWIN,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120204

WEDNESDAY, THE 16TH DAY OF
MARCH, A.D. 1966.

J.M. WOODARD,
Commissioner.

A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canada Steamship Lines
Limited for a licence under section
10 of the Transport Act:*

File No. 42076.4.5

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

Licence No. C.T.C. (W.T.) 448 is issued to Canada Steamship Lines Limited for the year 1966, licensing the following ships to transport motor vehicles, including passenger cars, trucks and other self-propelled vehicles, in deck loads, on Lakes Ontario, Erie, Huron (including Georgian Bay) and Lake Superior and their connecting waters, including the St. Lawrence River as far seaward as the west end of the Island of Orleans:

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Ashcroft	152641	7726
Donnaconna	134015	8611
Georgian Bay	176116	11392
Hagarty	134250	7462
Lemoyne	152647	10480

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120208

WEDNESDAY, THE 16TH DAY OF
MARCH, A.D. 1966.

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canada Steamship Lines
Limited, hereinafter called the
"Applicant", for a licence under
section 10 of the Transport Act:*

File No. 42076.4.2

IT IS HEREBY ORDERED AS FOLLOWS:

Subject to any exemption granted pursuant to subsection 2 of section 12 of the Transport Act, Licence No. C.T.C. (W.T.) 449 is issued to the Applicant licensing, for the year 1966, the following ships to transport goods by water between all ports and places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Battleford	148134	2357.31
Collingwood	117089	4545.10
English River	188398	6639.15
Eskimo	311755	4462.42
Fort Chambly	188396	5851.72
Fort Henry	176118	5728.94
Fort St. Louis	313968	5946.60
Fort York	188391	6021.44
Fort William	323001	6792.75
French River	188397	6636.96
Grainmotor	154473	2251.98
Iroquois	176119	2299.89
Metis	198480	3327.95
Renvoyle	148133	3571.08
Westmount	138232	7392.20

(SGD) JOHN M. WOODARD,
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120234

FRIDAY, THE 18TH DAY OF
MARCH, A.D. 1966.

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Express Traffic Association of Canada for approval of Supplement No. 17 to Express Classification for Canada No. 9, C.T.C. No. E.T. 3820, with subsequent amendment to page 27 thereof:

File No. 4397.151

WHEREAS the Express Traffic Association has submitted proposed Supplement No. 17 for approval pursuant to the provisions of Section 365 of the Railway Act;

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 17 to Express Classification for Canada No. 9, C.T.C. No. E.T. 3820, is approved, subject to the following change:—

The facsimile of combination short form of straight bill of lading — express merchandise receipt appearing on page 27 thereof to be deleted and the form submitted by the Express Traffic Association of Canada on March 3rd printed on page 27 in lieu thereof.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120258

MONDAY, THE 21ST DAY OF
MARCH, A.D. 1966.

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Pacific Railway
Company for a licence under section
10 of the Transport Act:*

File No. 42076.24

IT IS HEREBY ORDERED AS FOLLOWS:

Licence No. C.T.C. (W.T.) 450 is issued to the Canadian Pacific Railway Company for the year 1966, licensing the following ship, namely:

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Assiniboia	125984	3,925

to transport goods by water as follows:

One round trip each week in freight service during season of navigation. Leave Port McNicoll Saturday afternoon, arrive Fort William Monday morning. Leave Fort William Wednesday noon, arrive Port McNicoll Friday morning. The vessel will not call at the Sault Ste. Marie, Ontario, dock in either direction.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120270

TUESDAY, THE 22ND DAY OF
MARCH, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.
H.H. GRIFFIN,
Asst. Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.

*IN THE MATTER OF Vote 84d of
the Supplementary Estimates (D)
1965-66, Order No. 119995, dated
February 14, 1966, and Appropriation
Act No. 2, 1966:*

File No. 48771.3

WHEREAS Vote No. 84d of the Supplementary Estimates (D) for the fiscal year ending March 31, 1966, is as follows:

Vote 84d - To provide payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada of an aggregate amount of \$20,000,000 in respect of the period April 1, 1965, to March 31, 1966, to be paid in instalments at such times as may be determined by the said Board for the purpose of reimbursing the said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase, instead of 17% as authorized by the said Order; and to provide payments to the said companies of an aggregate amount in respect of the calendar year 1965 of \$50,000,000 to be paid in instalments at such times and in accordance with such methods of allocation as may be determined by the said Board for the maintenance by such companies of the rates of freight traffic at the said reduced level \$70,000,000.

AND WHEREAS eleven-twelfths of the said Vote was authorized for payment by Appropriation Act No. 1, 1966, and the times and methods of payments were set out in Board Order No. 119995.

AND WHEREAS the remaining one-twelfth of the said Vote 84d was authorized for payment by the Appropriation Act No. 2, 1966, assented to on March 9, 1966.

AND WHEREAS the Board considers that the method of claiming by companies subject to Board Order No. 96300 and the payment of claims and the making of interim payments in respect of the remaining one-twelfth of the said \$20,000,000 authorized for payment by the Appropriation Act No. 2, 1966, should

be in accordance with the methods of claiming and making payments which were in effect in respect of the Freight Rates Reduction Act and subsequent appropriations.

AND WHEREAS the Board considers that in determining the method of allocation and the times of payment of instalments in respect of the remaining one-twelfth of the said \$50,000,000 authorized for payment by the Appropriation Act No. 2, 1966, it should have regard to the freight traffic carried by the said companies at the said reduced level of rates based on an 8% increase instead of 17% as authorized by Board Order No. 96300 and also, because of the time lag in obtaining particulars of such traffic carried in 1965 and other circumstances, that instalment payments should be based on similar traffic carried during part of 1964 and in 1965, with such adjustment as may be necessary to provide for total payment in accordance with the method of allocation determined by the Board and hereinafter set forth.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

1. Companies claiming reimbursement for diminution in their aggregate gross revenues attributable to maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by Board Order No. 96300 in respect of the period April 1, 1965 to March 31, 1966, shall submit claims in the forms hereinbefore ordered by the Board for the submission of claims in respect of the Freight Rates Reduction Act and subsequent appropriations.

2. Companies entitled to claim reimbursement under the immediately preceding paragraph numbered 1 may, prior to filing such claim, apply to the Board for an interim payment; companies will submit with such application an estimate of the claim for a particular month as soon as possible after the close of such month and the Board will thereupon determine the amount of the interim payment in respect of traffic carried during that month.

3. Companies submitting a claim for a month in respect of which an interim payment has been received will show the total claim for that month in accordance with past practice less a final deduction of the amount of any interim payment received in respect of that month.

4. Subject to paragraph 5 the method of allocation of the remaining one-twelfth of \$50,000,000 pursuant to the Appropriation Act No. 2, 1966, to companies subject to Order No. 96300 shall be the allocation to each company of an amount that bears approximately the same relation to the total amount payable to all companies under the said Appropriation Act as the amount paid to the company in respect of reimbursement claims for diminution in aggregate gross revenues attributable to such company maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by Board Order No. 96300 during the month of December, 1965, bears to the total amount paid to all companies in respect of such claims for the same period.

5. After deducting from the said \$50,000,000 the amount payable therefrom to companies other than Canadian National Railways and Canadian Pacific Railway Company in accordance with paragraph 4, the remainder shall be allocated 60% to Canadian National Railways and 40% to Canadian Pacific Railway Company.

6. Forthwith upon issuance of this Order the Board shall recommend an instalment payment out of one-twelfth of \$50,000,000 to each company for the month of December, 1965.

(Note:

In calculating the amount payable to each company the Board will make an allocation based on payments to companies in respect of traffic carried during part of 1964 and in 1965, with such adjustment and deferment of payments as the Board deems necessary to insure that the total amount payable shall be allocated in accordance with the method set forth in paragraphs 4 and 5.)

7. The Board may make any amendments to this Order that it deems necessary in order to equitably allocate the amount authorized for payment.

(SGD) ROD. KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120290

WEDNESDAY, THE 23RD DAY OF
MARCH, A.D. 1966.

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of Scott Misener Steamships Limited (formerly Colonial Steamships Limited), hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:

File No. 42076.16

IT IS HEREBY ORDERED AS FOLLOWS:

Licence No. C.T.C. (W.T.) 451 is issued to the Applicant, licensing for the year 1966, the following ships to transport goods by water between all ports and places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Bayton	141675	4176
Ralph S. Misener	141679	7403
Royalton	151108	7146

(SGD) JOHN M. WOODARD,
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120293

**WEDNESDAY, THE 23RD DAY OF
MARCH, A.D. 1966.**

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Freight Asso-
ciation, under section 325 of the
Railway Act, for approval of Supple-
ment No. 29 to Canadian Freight
Classification No. 21, C.T.C. (F)
No. 1681, on file with the Board
under file No. 49084.29:*

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 29 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, on file with the Board under file No. 49084.29, is approved.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120307

**THURSDAY, THE 24TH DAY OF
MARCH, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.
J.M. WOODARD,
Commissioner.

IN THE MATTER OF the Canadian Pacific Railway Company's passenger train service, inclusive of mail and express, between Sudbury and White River, both in the Province of Ontario, for the duration of the summer timetable, 1966:

File No. 27563.511

In a Judgment dated January 7, 1966, in the matter of Canadian Pacific Railway Company's Trains 3, 4, 13 and 14 known as "The Dominion", the Board made reference to the necessity of further reviewing the need of providing an improved local passenger train service between Sudbury and White River, Ontario.

The penultimate paragraph of the Board's Judgment relating to the service reads as follows:

"Having regard particularly to the highway situation and the dependence of the area upon rail service, the Board intends to seek further information on the question whether the present 3-day per week operation of trains 417 and 418 between Sudbury and White River will be adequate after 'The Dominion' is discontinued or whether there should be a 6-day operation."

The Board arranged to have its field officers conduct a thorough review of the existing service including a study of the requirements of the Post Office Department, interviews with shippers and receivers of express as well as a review of the general pattern of passenger travel in this area.

The report filed by its officers has been considered by the Board and in view of what has now been placed before it the Board is of the opinion that there is need for a daily local passenger train service between Sudbury and White River.

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Pacific Railway Company shall, effective with the Spring change of timetable on April 24, 1966, institute a daily passenger train service, including both mail and express services, in each direction between Sudbury

and White River, in the Province of Ontario, to leave Sudbury no earlier than 7 a.m. local time, such service to continue for the duration of the Summer timetable in the year 1966.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120345

FRIDAY, THE 25TH DAY OF
MARCH, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.

J.M. WOODARD,
Commissioner.

*IN THE MATTER OF Order No.
119709, dated January 21, 1966,
granting leave to the Canadian
National Railways to use and enjoy
jointly with the Canadian Pacific
Railway Company certain trackage
between Smiths Falls and Brock-
ville, in the Province of Ontario:*

File No. 49232

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

Order No. 119709, dated January 21, 1966, is amended by striking out the figures "0.7" in paragraph numbered 1(b) of the said Order and substituting therefor the following: 0.07.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120365

**TUESDAY, THE 29TH DAY OF
MARCH, A.D. 1966.**

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Freight Asso-
ciation for approval of proposed
Supplement No. 30 to Canadian
Freight Classification No. 21,
C.T.C. (F) No. 1681:*

File No. 49084.30

WHEREAS the Interstate Commerce Commission by Special Permission No. 27334 granted relief to the Canadian Freight Association from certain provisions of Interstate Commerce Commission Tariff Circular No. 20 in the issuance of Supplement No. 2 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, effective December 27, 1963, which relief was for the duration of the the tariff or until December 15, 1965, whichever was the sooner;

AND WHEREAS, in order to prolong the duration of the said Supplement No. 2 until December 31, 1966, the Interstate Commerce Commission has granted the Canadian Freight Association further relief;

AND WHEREAS the Canadian Freight Association has applied to the Board for approval of proposed Supplement No. 30 to the said Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, pursuant to the provisions of Section 325 of the Railway Act in order to comply with the requirements of the Interstate Commerce Commission as aforesaid—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 30 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, on file with the Board under file No. 49084.30, is approved.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120368

**TUESDAY, THE 29TH DAY OF
MARCH, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.
H.H. GRIFFIN,
Asst. Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.
W.R. IRWIN,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of The Bell Telephone Company of Canada, hereinafter called the "Applicant Company", under section 380 of the Railway Act, for approval of interim increases of 2% and 5% in the basis of settlement as set forth in Appendix "B" of Traffic Agreement Form No. 301; and Alternate Appendix "B" (1962), respectively, both on file with the Board under Case 538:

WHEREAS by Order No. 77734, dated November 14, 1951, B.T. Form No. 301, Traffic Agreement was approved; and

WHEREAS by Order No. 109064, dated September 25, 1962, Alternate Appendix "B" (1962) was approved; and

WHEREAS the Applicant Company has applied to the Board for approval of interim increases of 2% and 5% in the basis of settlement as set forth in Appendix "B" of Traffic Agreement Form No. 301, and Alternate Appendix "B" (1962) respectively—

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

1. An interim increase of 2% in the basis of settlement as set forth in Appendix "B" of the Traffic Agreement to the said Order No. 77734 effective March 21, 1966, is approved.

2. An interim increase of 5% in the basis of settlement as set forth in Alternate Appendix "B" (1962) effective January 21, 1966, is approved.

(SGD) ROD. KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

**ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JANUARY, 1966**

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents	254	3	272
Level Crossing Accidents	68	21	80
	<u>322</u>	<u>24</u>	<u>352</u>

	<u>Killed</u>	<u>Injured</u>
Passengers	—	58
Employees	1	194
Others	23	100
	<u>24</u>	<u>352</u>

Of the 68 accidents at Highway Crossings, 43 occurred where standard railway crossing signs are located, 25 where additional forms of protection are in use, 34 after Sunrise and 34 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 120033 February 23 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and William St., Smiths Falls, Ont., mileage 35.1 Smiths Falls Subd.
- 120034 February 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 4 in Brysons, P.Q., mileage 52.13 Massena Subd.
- 120035 February 23 – Authorizing the C.N.R. and C.P.R. to operate through the interlocking at crossing of their railways and Birds Hill, Man., mileage 8.2 Pine Falls Subd. of C.N.R. and mileage 6.2 Lac du Bonnet Subd. of C.P.R.
- 120036 February 23 – Approving location of proposed flammable liquid storage facilities of the British American Oil Company Limited at Ashern, Man., C.N.R.
- 120037 February 23 – Authorizing the C.P.R. to operate over the branch line of its railway commencing at mileage 27.91 Acme Subd., Alta.
- 120038 February 23 – Authorizing the City of Saint-Jerome, P.Q. to construct a pedestrian crossing at Guenette Ave. where it crosses the C.P.R., mileage 14.01 Ste. Agathe Subd.
- 120039 February 23 – Amending Order No. 111520, and authorizing the C.P.R. and the British Columbia Hydro & Power Authority to operate over Kitsilano Bridge across False Creek, in Vancouver, B.C.
- 120040 February 23 – Relieving the C.P.R. from erecting right of way fences on the south side of its Bassano Subd. between mileage 95.76 and mileage 96.50, Alta.
- 120041 February 23 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and St. Clement St., Montreal, P.Q., mileage 8.83 Longue Pointe Subd.
- 120042 February 23 – Approving toll published in tariff filed by the Canada and Gulf Terminal Rly. under section 3 of the M.F.R.A.
- 120043 February 23 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120044 February 23 – Authorizing the removal of the speed limitation at crossing of the T.H. & B.R. and Shellard Road, west of Brantford, Ont., mileage 66.27 Waterford Subd.

- *120045 February 23 – Approving Standard Passenger Tariff filed by the A.C.R. (See page 232, 56 B.T.C.)
- 120046 February 23 – Requiring the C.N.R. to install automatic protection at crossing of their railway and the Pierre Huot Access Road in Chateau Richer, P.Q., mileage 17.02 Murray Bay Subd.
- 120047 February 23 – Amending Order No. 115470, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Simpson Ave. in Bowmanville, Ont., mileage 290.44 Oshawa Subd.
- 120048 February 23 – Requiring the N.Y.C.R. to install automatic protection at crossing of its railway and Tillson Ave., in Tillsonburg, Ont., Mileage 90.66 N.F. Main Line Subd.
- 120049 February 23 – Amending Order No. 119458, and authorizing the C.P.R. and the British Columbia Hydro & Power Authority to operate on the siding which commences at mileage 2.44 Westminster Branch of the Vancouver and Lulu Island Subd., in Vancouver, B.C.
- 120050 February 23 – Requiring the C.N.R. to install automatic protection at crossing of their railway and St-Emmanuel Road in St-Ignace-du-Coteau-du-Lac, P.Q., mileage 33.19 Cornwall Subd.
- 120051 February 23 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 20 and Station Road in Fonthill, Ont., mileage 11.87 Fonthill Subd.
- 120052 February 24 – Authorizing the City of Arthur, Ont., to construct an overhead bridge to carry 6th Ave. across and over the C.N.R. at mileage 1.47 Kashabowie Subd., and over the C.P.R. at mileage 130.09 Nipigon Subd.
- 120053 February 24 – Requiring the Great Slave Railway (C.N.R.) to install protection at crossing of their railway and Northwest Territories Highway No. 5 in the Northwest Territories, mileage 9.7.
- 120054 February 24 – Amending Order No. 114888, re apportionment of cost of installing automatic protection at crossing of the T.H. & B.R. and Development Road 683, on the Pelham-Gainsboro Town Line, mileage 7.93 Welland Subd., Ont.
- 120055 February 24 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Florence St., in Emo, Ont., mileage 109.06 Fort Frances Subd.

- 120056 February 24 – Declaring the crossing of the highway and the C.N.R. at mileage 19.09 Bonavista Subd., Nfld., to be a public crossing, and authorizing the reconstruction of same.
- 120057 February 24 – Approving construction of the main track of the Great Slave Lake Railway (C.N.R.) across Spruce Road in Hay River, N.W.T., mileage 373.11.
- 120058 February 24 – Amending Order No. 110430, re apportionment of cost of constructing an overhead bridge to carry Heatley Ave. over the C.P.R. and C.N.R. in Vancouver, B.C.
- 120059 February 24 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120060 February 24 – Removing the speed restriction at crossing of the C.P.R. and Main St. in Portage la Prairie, Man., mileage 55.6 Carberry Subd.
- 120061 February 24 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highway No. 17 and Bridge St. in St. Leonard, N.B., mileage 194.35 Napadogan Subd.
- 120062 February 24 – Authorizing the C.N.R. to remove the station agent at Van Bruyssel, P.Q., provided a resident caretaker is appointed and available for duty.
- 120063 February 24 – Authorizing the C.P.R. to remove the caretaker but retain the station building at St. Hermas, P.Q.
- 120064 February 24 – Authorizing the C.P.R. to relocate the crossing signs from mileage 0.38 Kaministiquia Subd., Ont., to mileage 58.81 Arborg Subd., Man.
- 120065 February 24 – Authorizing the City of Winnipeg, Man., to construct St. James St. across the spur serving Labatt's Brewery Limited at mileage 0.09 of the spur, which commences at mileage 4.67 Oak Point Subd., C.N.R.
- 120066 February 24 – Authorizing the City of Winnipeg, Man., to construct St. James St. across the spur of Labatt's Manitoba Brewery Limited at mileage 0.09, commencing at mileage 4.74 Oak Point Subd., C.N.R.
- 120067 February 24 – Approving changes in the automatic protection at crossing of the C.N.R. and Station Road, in St. Basile le Grand, P.Q., mileage 59.36 St. Hyacinthe Subd.
- 120068 February 24 – Approving changes in the automatic protection at crossing of the C.N.R. and Third and Fourth Range Road, east of Fortier, P.Q., mileage 33.63 Drummondville Subd.

- 120069 February 25 – Approving the deviation of the C.N.R. main line for a distance of 2768.6 feet in the vicinity of mileage 401.81 Bishops Falls, Nfld.
- 120070 February 25 – Requiring the Quebec Power Company to remove or relocate its existing facilities to permit construction of the subway at crossing of Colisee Ave. and the C.N.R. in the City of Quebec, P.Q., mileage 1.94 Lairet Subd.
- 120071 February 25 – Requiring the C.N.R. to install automatic protection at crossing of their railway and County Road No. 15, mileage 26.63 Halton Subd., Ont.
- 120072 February 25 – Amending Order No. 117299, re apportionment of cost of improving the approach grades and widening Municipal Road where it crosses the C.P.R., mileage 80.76 Sherbrooke Subd., P.Q.
- 120073 February 25 – Authorizing the Town of Preston, Ont., to widen Concession St. where it crosses the C.N.R. at mileage 19.56 Fergus Subd.
- 120074 February 25 – Authorizing the United Townships of Head, Clara and Maria, Ont., to reconstruct Township Road across the C.P.R. at mileage 37.6 North Bay Subd.
- 120075 February 25 – Authorizing the Quebec Dept. of Roads to reconstruct old Highway No. 6 where it crosses the C.N.R. in the Township of Douglas, P.Q., mileage 91.18 Chandler Subd.
- 120076 February 28 – Amending Order No. 112639, re apportionment of cost of reconstructing the subway carrying Main St. across and under the C.N.R. in Brampton, Ont., mileage 21.1 Brampton Subd.
- 120077 February 28 – Approving construction of the main track of the Great Slave Lake Railway (C.N.R.) across the public road in Hay River, Northwest Territories, mileage 376.65.
- 120078 February 28 – Approving construction of the main track of the Great Slave Lake Railway (C.N.R.) across the public road in Hay River, Northwest Territories, mileage 376.75.
- 120079 February 28 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Cie de Telephone de Disraeli.
- 120080 February 28 – Apportioning the cost of placing reflective markings on the sides of T.H. & B.R. cars.

- 120081 February 28 – Authorizing the Corp. of the City of Kamloops, B.C., to construct a subway to carry 10th Ave. across and under the C.P.R. at mileage 128.02 Shuswap Subd.
- 120082 February 28 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Green's Side Road, mileage 36.4 Grimsby Subd., Ont.
- 120083 February 28 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Station Road, Beamsville, Ont., mileage 23.21 Grimsby Subd.
- 120084 February 28 – Extending the temporary period for loading tank trucks of Anhydrous Ammonia at McGregor, Ont., by Canadian Industries Limited, C. & O.R.
- 120085 February 28 – Authorizing the C.N.R. to make changes to their signals between mileages 0.0 and 4.0 Grimsby Subd., Clifton, Ont.
- 120086 February 28 – Rescinding Order No. 117222, and amending Order No. 115100, by striking out "mileage 38.60" and substituting mileage 118.00 Windermere Subd., B.C., C.P.R.
- 120087 March 2 – Approving drawings showing the permanent relocation of the Prescott Subd. of the C.P.R. and its sidings in Ottawa, Ont.
- 120088 March 2 – Authorizing the Quebec Dept. of Roads to construct a tunnel to carry Highways Nos. 2 and 17 (Decarie Blvd.) across and over the C.N.R. in Montreal, at mileage 4.23 Montreal Subd.
- 120089 March 2 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Sources Road, P.Q., mileage 6.75 Winchester Subd.
- 120090 March 2 – Authorizing the C.N.R. to operate over the subway in the Twp. of Portland, Ont., mileage 83.62 Smiths Falls Subd.
- 120091 March 2 – Authorizing the Manitoba Highways Department to reconstruct Provincial Road No. 305 where it crosses the C.P.R. at mileage 63.94 Carberry Subd.
- 120092 March 2 – Authorizing the Rural Munic. of Mariposa, Sask., to reconstruct the grid road where it crosses the C.P.R. at mileage 17.46 Reford Subd.
- 120093 March 2 – Authorizing the City of Calgary, Alta., to improve the clearance where 9th Ave. SE crosses under the subway carrying the tracks of the C.P.R., mileage 0.7 Red Deer Subd.

- 120094 March 2 - Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120095 March 2 - Authorizing the C.N.R. to make signal changes between mileage 194.0 and mileage 213.0 on their Watrous Subd., Sask.
- 120096 March 2 - Authorizing The Metropolitan Corporation of Greater Winnipeg to construct a subway to carry Prov. Trunk Highway No. 59 across and under the C.N.R. in St. Boniface, Man., mileage 149.8 Sprague Subd.
- 120097 March 2 - Amending Order No. 118143, re apportionment of cost of reconstructing the overhead bridge carrying Pelham Road across and over the C.N.R. in St. Catharines, Ont., mileage 11.53 Grimsby Subd.
- 120098 March 2 - Approving Revision to Appendix "A" to Traffic Agreement between the C.N.R. and The Bell Telephone Company of Canada.
- 120099 March 2 - Authorizing the Ontario Dept. of Highways to construct a pedestrian crossing across the C.N.R. at mileage 187.99 Gananoque Subd.
- 120100 March 2 - Authorizing the C.P.R. to remove the caretaker and the station building at Templeton, P.Q.
- 120101 March 2 - Requiring the C.P.R. to pay the cost of maintenance of the crossing of its railway and Carriere St., Township of Rayside, Ont., mileage 86.38 Cartier Subd.
- 120102 March 3 - Authorizing the C.N.R. to remove the caretaker at Emerson, Man.
- 120103 March 3 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and St. Bruno Road, Boucherville, P.Q., mileage 8.13 Sorel Subd.
- 120104 March 3 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Laurentian Blvd., St. Laurent, P.Q., mileage 143.1 Joliette Subd.
- 120105 March 3 - Authorizing the Quebec Dept. of Roads to reconstruct Augusta Concession Road where it crosses the C.N.R. at mileage 72.12 Joliette Subd.
- 120106 March 3 - Requiring the Britt Local Roads Board to pay the cost of maintenance of the crossing of the highway and the C.P.R. at mileage 1.01 Coal Dock Spur, commencing at mileage 65.0 Parry Sound Subd., Ont.

- 120107 March 3 - Approving the location of proposed additional flammable liquid storage facilities of the Standard Oil Company of British Columbia Limited at Vanderhoof, B.C., C.N.R.
- 120108 March 4 - Authorizing the C.N.R. to remove the agent at Findlater, Sask., provided a resident caretaker is appointed and available for duty.
- *120109 March 4 - Approving application of Yankcanuck Steamships Limited for a licence under section 10 of the Transport Act. (See page 295, 56 B.T.C.)
- 120110 March 4 - Approving location of proposed tank car unloading and loading facilities of Imperial Oil Limited at Kinuso, Alta., N.A.R.
- 120111 March 4 - Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at Silver Plains, Man., mileage 29.48 Letellier Subd.
- *120112 March 4 - Approving application of Charles Sanders for a licence under section 10 of the Transport Act. (See page 296, 56 B.T.C.).
- 120113 March 7 - Approving location of flammable liquid storage facilities of Imperial Oil Limited at Rivers, Man., C.N.R.
- 120114 March 7 - Approving plan showing changes in the automatic protection at crossing of the C.N.R. and Aylmer and Perry Sts., in Peterborough, Ont., mileage 62.93 Campbellford Subd.
- 120115 March 7 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway near Moulton, Ont., mileage 32.94 Cayuga Subd.
- 120116 March 7 - Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 3.55 Sussex Subd., to mileage 1.30 Renfrew Spur which commences at mileage 58.8 Chalk River Subd., Ont.
- 120117 March 7 - Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 27.3 to mileage 0.61 Bolton Wye track which commences at mileage 22.26 all on MacTier Subd., Ont.
- 120118 March 7 - Amending Order No. 110919, re apportionment of cost of installing protection at crossing of the C.N.R. and No. 10 Sideroad, Township of Esquesing, Ont., mileage 19.01 Milton Subd.
- 120119 March 7 - Authorizing the Ontario Dept. of Highways to reconstruct the subway carrying Highway No. 4 under the C.P.R. at Durham, Ont., mileage 15.93 Walkerton Subd.

- 120120 March 8 - Extending the time within which the C.N.R. is required to install automatic protection at crossing of their railway and Kenaston Blvd., Winnipeg, Man., mileage 5.18 Rivers Subd.
- 120121 March 8 - Authorizing the City of London, Ont., to reconstruct the subway carrying Oxford St. West across and under the C.N.R. at mileage 2.61 Strathroy Subd.
- 120122 March 16 - Authorizing the N.B. Dept. of Public Works to install automatic protection at crossing of the C.N.R. and St. Pauls Road, Rogersville, mileage 44.27 Newcastle Subd.
- 120123 March 8 - Approving revised appendix to Traffic Agreement between The Bell Telephone Company of Canada and Telephone Milot Inc.
- 120124 March 8 - Approving revised appendix to Traffic Agreement between The Bell Telephone Company of Canada and Le Reseau de Telephone Shawinigan Valley.
- 120125 March 8 - Authorizing the removal of the speed limitation at crossing of the highway (Fish Crossing) and the C.N.R. west of Coaticook, P.Q., mileage 27.08 Sherbrooke Subd., Champlain Area.
- *120126 March 8 - Authorizing the C.P.R. to abandon operation of that portion of its Southampton Subd., between mileage 9.25 and mileage 12.6 near Otis, N.B. (See page 289, 56 B.T.C.)
- *120127 March 8 - Requiring the C.P.R. to pay the balance of the cost of installing the automatic protection at crossing of its railway and King St., in Hartland, N.B., mileage 64.14 Shogomoc Subd. (See page 294, 56 B.T.C.)
- *120128 March 8 - Authorizing the C.N.R. to abandon operation of a portion of its Centreville Subd., from Fredericton to Woodstock, N.B., (See page 290, 56 B.T.C.)
- 120129 March 9 - Authorizing the Municipal Corp. of the Township of Johnson, Ont., to reconstruct the highway where it crosses the C.P.R. at mileage 99.71 Thessalon Subd.
- 120130 March 9 - Authorizing the removal of the speed limitation at crossing of the C.P.R. and Avanlough St., in Belleville, Ont., mileage 94.46 Belleville Subd.
- *120131 March 9 - Authorizing the C.P.R. to discontinue operation of trains Nos. 202 and 304 between Montreal and Megantic, P.Q., provided a local passenger train service is provided by trains Nos. 201 and 206 (See page 271, 56 B.T.C.)

- 120132 March 9 – Amending Order No. 100205, re apportionment of cost of constructing a subway at crossing of Highway No. 9 and the main line of the C.N.R. at mileage 40.3 St. Hyacinthe Subd., and mileage 126.7 Drummondville Subd., P.Q.
- 120133 March 9 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 56.9 Windsor Subd., to mileage 0.40 Elora Subd., Ont.
- 120134 March 9 – Authorizing the Alberta Dept. of Highways to construct an overhead bridge to carry Highway No. 31 across and over the C.N.R. at mileage 55.81 Edson Subd.
- 120135 March 9 – Declaring the crossing of Township Road and the C.P.R. at mileage 113.85 Parry Sound Subd., Ont., to be a public crossing, and authorizing the Statute Labour Board of the Townships of Cleland, Dryden and Dill to reconstruct same.
- 120136 March 9 – Authorizing the Quebec Dept. of Roads to construct an overhead bridge to carry Highway No. 6 across and over the C.N.R. at mileage 30.03 Chandler Subd.
- 120137 March 9 – Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and La Cooperative de Telephone de Nantes, Comte de Frontenac.
- 120138 March 9 – Approving new Traffic Agreement between The Bell Telephone Company of Canada and Telephone Frontenac Limitee.
- 120139 March 9 – Requiring the C.P.R. to install automatic protection at crossing of its railway and the Kazabazua-Danforth Road in Twp. of Aylwin, P.Q., mileage 45.37 Maniwaki Subd.
- 120140 March 9 – Requiring the Corp. of the District of North Cowichan, B.C. to remove trees and stumps and relocate poles and anchors, at crossing of Henry Road and the C.P.R. near Chemainus, mileage 50.6 Victoria Subd., and requiring the C.P.R. to install automatic protection at said crossing.
- 120141 March 9 – Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Munic. of the Village of Magnetawan.
- 120142 March 9 – Authorizing the C.N.R. to remove the caretaker at Brower, Ont.
- 120143 March 9 – Authorizing the C.N.R. to remove the caretaker and the station building at Strickland, Ont.

- 120144 March 9 - Dismissing application of the C.P.R. for authority to remove the caretaker and station building at Barrette, P.Q.
- 120145 March 9 - Requiring the C.P.R. to install automatic protection at crossing of its railway and the highway in Moores Mills, N.B., mileage 25.24 St. Stephen Subd.
- 120146 March 9 - Amending Order No. 115509, re apportionment of cost of installing automatic protection at crossing of the C. & O.R. and Town Line Road in Merlin, Ont., mileage 61.0 No. 1 Subd.
- 120147 March 9 - Amending Order No. 119908, which authorized the Town of Whitby, Ont., to improve the subway carrying Highway No. 2 (Dundas St.) under the C.P.R. at mileage 177.81 Belleville Subd.
- 120148 March 9 - Approving changes in the automatic protection at crossing of the C.N.R. and Paget St., Sundridge, Ont., mileage 183.17 Newmarket Subd.
- 120149 March 9 - Authorizing the City of Saint-Jean, P.Q., to construct Industrial Boulevard across the C.N.R. at mileage 23.99 Rouses Point Subd.
- 120150 March 9 - Authorizing the Quebec Dept. of Roads to construct a subway to carry the Upper Lachine Road across and under the C.P.R. in Montreal, P.Q., mileage 2.51 Westmount Subd.
- 120151 March 9 - Authorizing the County of Simcoe, Ont., to reconstruct County Road No. 1 where it crosses the C.P.R. at mileage 38.89 MacTier Subd.
- 120152 March 9 - Authorizing the C.P.R. to operate under the overhead bridge carrying Highway No. 95 over its right of way at mileage 65.33 Windermere Subd., B.C.
- 120153 March 9 - Authorizing the B.C. Hydro and Power Authority to operate over the relocated portion of the Steveston Branch of the Vancouver and Lulu Island Subd. of the C.P.R. between mileages 0.59 and 5.05, Twp. of Richmond, B.C.
- 120154 March 9 - Approving changes in the automatic protection at crossing of the C.N.R. and the highway at Debert, N.S., mileage 11.23 Springhill Subd.
- 120155 March 9 - Authorizing the C.N.R. and C.P.R. to operate under the overhead bridge carrying Yarrow Sideroad over the C.N.R. at mileage 234.25 Oshawa Subd. and over the C.P.R. at mileage 104.93 Belleville Subd., Ont.

- 120156 March 9 – Authorizing the Township of Howard, Ont., to reconstruct Howard Road where it crosses the N.Y.C.R. at mileage 161.39 Main Line Subd.
- 120157 March 9 – Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and Gouvernement de la Province de Quebec.
- 120158 March 9 – Approving location of flammable liquid storage facilities of the Irving Oil Company Limited at Woodstock, N.B., C.N.R.
- 120159 March 9 – Authorizing the C.N.R. to relocate their connecting track from Main Line to Canal Bank Spur which crosses Notre Dame St. at mileage 5.50 Montreal Subd., to a point opposite mileage 0.47 Lachine Industrial Spur, Montreal, P.Q.
- 120160 March 10 – Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Lambton Inc.
- 120161 March 10 – Approving overhead and side clearances on the siding serving the St. Lawrence Starch Company Limited, in Port Credit, Ont., mileage 12.54 Oakville Subd., C.N.R.
- 120162 March 10 – Authorizing the Quebec Dept. of Roads to construct an overhead bridge to carry Highway No. 2A across and over the C.N.R. at mileage 33.63 Montmagny Subd.
- 120163 March 10 – Approving the location of the flammable liquid storage facilities of Shell Canada Limited at Smiths Falls, Ont., C.P.R.
- 120164 March 10 – Rescinding authority granted Imperial Oil Limited to locate their flammable liquid storage facilities at Fork River, Man., C.N.R.
- 120165 March 11 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and De la Montagne St., in St. Tite, P.Q., mileage 7.49 Linton Subd.
- 120166 March 11 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and St. Leon St., in St. Tite, P.Q., mileage 7.34 Linton Subd.
- 120167 March 11 – Amending Order No. 118943, which authorized the Township of Bayham, Ont., to widen Township Road across the C.P.R. at mileage 28.52 Port Burwell Subd.
- 120168 March 11 – Authorizing the British Yukon Railway Company to construct an industrial spur line extension in Whitehorse, Y.T.

- 120169 March 11 - Authorizing the C.P.R. to construct a siding to serve Liquid Carbonic Canadian Corporation Ltd., which will cross Industrial Drive in the R.M. of Sherwood No. 159, Sask.
- 120170 March 11 - Authorizing the C.N.R. to operate on the subway structure which carries their railway across and over Highway No. 7, Twp. of Vaughan, Ont., mileage 14.23 Newmarket Subd.
- 120171 March 11 - Approving changes in the automatic protection at crossing of the C.N.R. and O'Brien Boulevard, Montreal, P.Q., mileage 6.78 Mount Royal Subd.
- 120172 March 11 - Approving changes in the automatic protection at crossing of the C.N.R. and Township Road East, Ont., mileage 81.30 Cayuga Subd.
- 120173 March 11 - Approving changes in the automatic protection at crossing of the C.N.R. and Haig Ave., Montreal, P.Q., mileage 7.23 Longue Pointe Subd.
- 120174 March 11 - Authorizing the C.P.R. to remove the agent at Goodlands, Man., provided a resident caretaker is appointed and available for duty.
- 120175 March 11 - Approving location of flammable liquid facilities of Canadian Oil Company (Division of Shell Canada Limited) at New Richmond, P.Q., C.N.R.
- 120176 March 11 - Approving tolls published in tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 120177 March 11 - Approving location of flammable liquid storage facilities of the Kootenay Oil Distributors Limited at Columbia Gardens, B.C., G.N.R.
- 120178 March 11 - Authorizing the C.N.R. to reconstruct the bridge over the creek at mileage 81.5 Skeena Subd., B.C.
- 120179 March 11 - Amending Order No. 115892, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Collector Road at Acadiaville Siding, N.B., mileage 40.02 Newcastle Subd.
- 120180 March 14 - Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at Phelans, Ont., mileage 99.59 Cartier Subd.
- 120181 March 14 - Authorizing the C.P.R. to remove the agent at Forrest, Man., provided a resident caretaker is appointed and available for duty.

- 120182 March 14 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Strange St., Kitchener, Ont., mileage 63.5 Guelph Subd.
- 120183 March 14 - Approving changes in the automatic protection at crossing of the C.N.R. and the highways at Mahone Bay, N.S., mileages 0.32 and 0.35 Lunenburg Subd.
- 120184 March 14 - Approving signal changes on the Quebec North Shore & Labrador Railway Company between certain mileages in the Province of Quebec.
- 120185 March 14 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 596, near Minaki, Ont., mileage 138.82 Redditt Subd.
- 120186 March 14 - Authorizing the Highways Dept. of Manitoba to reconstruct Provincial Road No. 468 across the C.P.R. at mileage 127.45 Carberry Subd.
- 120187 March 14 - Authorizing the C.P.R. to construct a siding to serve Prime Packers Limited across Ethel Ave., in Toronto, Ont., mileage 5.46 Galt Subd.
- 120188 March 14 - Authorizing the C.N.R. to construct a temporary track diversion to permit construction of the subway across and under their track at mileage 129.0 Joliette Subd., P.Q.
- 120189 March 14 - Authorizing the City of Calgary, Alta., to widen 42nd Avenue Southeast where it crosses the C.P.R. at mileage 0.09 Nitrogen Spur, commencing at mileage 2.00 McLeod Subd.
- 120190 March 14 - Amending Order No. 117618, which approved certain plans for the relocation of trackage by the N.A.R. in Peace River, Alta.
- 120191 March 15 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway at Adams, Sask., mileage 9.04 Central Butte Subd.
- 120192 March 15 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Thames St., Ingersoll, Ont., mileage 58.9 Dundas Subd.
- 120193 March 15 - Approving resolution of the Norfolk and Western Railway Company covering tariffs to be charged in connection with coal and coke.
- 120194 March 15 - Approving location of proposed flammable liquid storage facilities of Shell Canada Limited at Sifton, Man., C.N.R.

- 120195 March 15 - Approving flammable liquid storage facilities of Imperial Oil Limited at Winnipeg, Man., C.N.R.
- 120196 March 15 - Approving location of proposed Ammonium Nitrate storage facilities of the Maidstone & District Co-Operative Association Limited at Maidstone, Sask., C.N.R.
- 120197 March 15 - Approving plan showing the signals as installed at crossing of the C.P.R. at mileage 118.26 Havelock Subd., and the C.N.R. at mileage 63.07 Campbellford Subd., Ont.
- 120198 March 15 - Relieving the C.P.R. from erecting right of way fences between mileages 7.58 and 8.19 on both sides of its Lyleton Subd., Man.
- 120199 March 15 - Authorizing the C.N.R. to discontinue the agency and remove the station building at Vercheres, P.Q.
- 120200 March 16 - Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Champlain Limitee.
- 120201 March 16 - Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and Dunnville Consolidated Telephone Company Limited.
- 120202 March 16 - Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Soulanges Limitee.
- 120203 March 16 - Approving Revised Appendix and Supplements to Traffic Agreement between The Bell Telephone Company of Canada and Telecommunications Richelieu Limitee (Division de Sorel).
- *120204 March 16 - Granting Licence to Canada Steamship Lines Limited under section 10 of the Transport Act. (See page 297, 56 B.T.C.)
- 120205 March 16 - Rescinding authority granted the C.P.R. to operate over the private siding serving the Montreal Terra Cotta Limited at Lakeside, P.Q.
- 120206 March 16 - Requiring the C.P.R. to install automatic protection at crossing of its railway and Highway No. 559, in Shawanaga Township, Ont., mileage 39.50 Parry Sound Subd.
- 120207 March 17 - Authorizing the Quebec Dept. of Roads to construct a subway to carry the north and south service roads and Highway No. 3A across and under the C.N.R. at mileage 63.56 St. Hyacinthe Subd.

- *120208 March 16 - Granting Licence to Canada Steamship Lines Limited under section 10 of the Transport Act. (See page 298, 56 B.T.C.)
- 120209 March 17 - Amending Order No. 102815, re apportionment of cost of constructing a highway diversion north of C.N.R. between mileages 47.29 and 49.66 Sydney Subd., N.S.
- 120210 March 17 - Authorizing payment to The Bell Telephone Company of Canada and Hydro Quebec, covering the cost of removing or relocating their facilities to permit construction of Montee St. Charles across and under the C.N.R. and C.P.R. in the Munic. of Beaconsfield, P.Q.
- 120211 March 17 - Requiring the C.N.R. to install protection at crossing of their railway and Grandin Ave., in Morinville, Alta., mileage 20.75 Athabasca Subd.
- 120212 March 18 - Amending Order No. 113311, re apportionment of cost of installing protection at crossing of the C. & O.R. and Essex County Road No. 9, New Canaan, Ont., mileage 15.41 No. 1 Subd.
- 120213 March 18 - Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120214 March 18 - Authorizing the C.N.R. to operate over the bridge which crosses Log Creek, B.C., at mileage 55.2 Skeena Subd.
- 120215 March 18 - Authorizing the C.N.R. to operate on the bridge at mileage 17.2 Tete Jaune Subd., B.C.
- 120216 March 18 - Approving revisions to tariffs filed by the British Columbia Telephone Company.
- 120217 March 18 - Authorizing the C.N.R. to operate over their bridge at mileage 73.0 Telkwa Subd., B.C.
- 120218 March 18 - Authorizing the C.N.R. to operate on the bridge which crosses the creek at mileage 120.4 Bulkley Subd., B.C.
- 120219 March 18 - Authorizing the C.N.R. to operate on their bridge which crosses the Endako River, B.C., mileage 12.8 Telkwa Subd.
- 120220 March 18 - Authorizing the C.N.R. to operate on the bridge which crosses the Bulkley River, B.C., mileage 71.7 Telkwa Subd.
- 120221 March 18 - Authorizing the City of Chatham, Ont., to widen Lacroix St. where it crosses the C.N.R. at mileage 61.92 Chatham Subd.

- 120222 March 18 - Requiring the C.P.R. to install automatic protection at crossing of its railway and Highway No. 430, in Austin, Man., mileage 85.0 Carberry Subd.
- 120223 March 18 - Authorizing the C.P.R. to construct a siding to serve Grange Mattress Company across 71st Avenue and a lane east of Manitoba St., in Vancouver, B.C.
- 120224 March 18 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 560, in Twp. of Westbrook, Ont., mileage 69.41 Ruel Subd.
- 120225 March 18 - Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 1.92 Marien Avenue Spur, to mileage 0.12 on the siding which commences at mileage 28.47 St. Hyacinthe Subd., P.Q.
- 120226 March 18 - Authorizing the Ontario Dept. of Highways to construct Joyceville Side Road where it crosses the C.N.R. at mileage 163.34 Gananoque Subd.
- 120227 March 18 - Authorizing the Highways Department of Manitoba to reconstruct Provincial Road No. 350 where it crosses the C.N.R. at mileage 76.57 Rivers Subd.
- 120228 March 18 - Approving location of flammable liquid transfer facilities of Imperial Oil Limited at Trois Rivières, P.Q., C.P.R.
- 120229 March 18 - Approving restricted clearances to be created by the construction of two siding tracks to serve the facilities of L.D. & H. Schreiber Limited in St. Leonard, P.Q., C.N.R.
- 120230 March 18 - Authorizing the Munic. of the Township of Granby, P.Q. to construct Avenue des Pins across the C.N.R. at mileage 17.70 Granby Subd.
- 120231 March 18 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 16 in Hansard, B.C., mileage 100.39 Fraser Subd.
- 120232 March 18 - Authorizing the City of Guelph, Ont., to connect and synchronize the traffic signals at intersection of Edinburgh Road and Speedvale Ave. with the automatic protection at crossing of the C.N.R. and Speedvale Ave., mileage 31.57 Fergus Subd.
- 120233 March 18 - Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 1.49 Sheerness Subd., to mileage 0.60 on the spur which commences at mileage 134.91 Drumheller Subd., Alta.

- *120234 March 18 - Approving Supplement No. 17 to Express Classification for Canada No. 9, C.T.C. No. E.T. 3820. (See page 299, 56 B.T.C.)
- 120235 March 18 - Approving location of proposed flammable liquid storage facilities of The British American Oil Company Limited at Lanigan, Sask., C.P.R.
- 120236 March 18 - Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 65.40 to mileage 67.50 Brazeau Subd., Alta.
- 120237 March 18 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway 0.40 north of Rinfret, P.Q., mileage 28.73 Montfort Subd.
- 120238 March 18 - Rescinding authority granted Reichhold Chemicals (Canada) Limited to locate their flammable liquid storage facilities in the Township of North York, Ont., C.P.R.
- 120239 March 18 - Approving tolls published in tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 120240 March 18 - Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120241 March 18 - Approving tolls published in tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 120242 March 18 - Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 120243 March 18 - Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 120244 March 18 - Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120245 March 18 - Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120246 March 18 - Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 120247 March 18 - Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120248 March 18 - Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. at Minto, N.B., mileage 33.10 Minto Subd.
- 120249 March 21 - Authorizing the City of Chatham, Ont., to widen Queen St. where it crosses the C.N.R. at mileage 61.54 Chatham Subd.

- 120250 March 21 - Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. near Chaplin, Sask., mileage 53.3 Swift Current Subd.
- 120251 March 21 - Authorizing the C.P.R. to operate under the overhead bridge at mileage 20.39 Brocket Southerly Branch Line, Alta.
- 120252 March 21 - Authorizing the C.N.R. to operate on their bridge which crosses Igneous Creek, B.C., at mileage 55.9 Skeena Subd.
- 120253 March 21 - Relieving the C.P.R. from erecting right of way fences between mileages 75.8 and 76.8, on the south side of its Wetaskiwin Subd., Alta.
- 120254 March 21 - Approving the proposed retirement of the service and passing tracks of the C.N.R. at Philips, Alta.
- 120255 March 21 - Approving location of proposed additional flammable liquid storage facilities of Shell Canada Limited at Amos, P.Q., C.N.R.
- 120256 March 21 - Authorizing the Town of Dryden, Ont., to construct a pedestrian underpass across and under the C.P.R. at mileage 63.3 Ignace Subd.
- 120257 March 21 - Authorizing the C.N.R. to construct a siding to serve Shell Canada Limited which will cross 106th St., in Hay River, N.W.T., mileage 376.75 Great Slave Lake Rly.
- *120258 March 21 - Granting a Licence to the C.P.R. under section 10 of the Transport Act. (See page 300, 56 B.T.C.)
- 120259 March 21 - Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Munic. of the Village of Magnetawan.
- 120260 March 21 - Authorizing the C.P.R. to widen Allenby Road where it crosses its railway at mileage 38.70 Victoria Subd., near Duncan, B.C.,
- 120261 March 21 - Authorizing the Manitoba Dept. of Highways to reconstruct Provincial Road No. 257 where it crosses the C.P.R. in Virden, Man., mileage 46.56 Broadview Subd.
- 120262 March 21 - Authorizing the City of Saskatoon, Sask., to construct McKee Ave. across the C.N.R. at mileage 0.38 of the Federated Co-op Industrial Lead, commencing at mileage 6.22 Warman Subd.

- 120263 March 21 - Authorizing the C.N.R. to permanently convert the Wellington St. swing bridge over the Lachine Canal, P.Q., at mileage 0.66 Montreal Harbour Branch, into a fixed span.
- 120264 March 21 - Authorizing the Saskatchewan Dept. of Highways and Transportation to construct an overhead bridge to carry an additional dual lane roadway of Highway No. 11 across and over the C.N.R. at mileage 185.22 Watrous Subd.
- 120265 March 21 - Authorizing the C.N.R. to operate over the siding serving Atlantic Sugar Refinery Company, which crosses Bancroft St. in Hamilton, Ont., mileage 38.36 Grimsby Subd.
- 120266 March 21 - Approving clearances at the chip loader on the siding serving Kicking Horse Forest Products Limited, which leads from the Mountain Subd. at mileage 36.2, B.C.
- 120267 March 21 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Lorne Ave., in Stratford, Ont., mileage 1.3 Thorndale Subd.
- 120268 March 21 - Authorizing the C.N.R. to remove the station agent, the station building and the freight shed at South Nelson, N.B.
- 120269 March 21 - Authorizing the removal of the speed limitation at crossing of the T.H. & B.R. and Shellard's Road, Ont., mileage 66.27 Waterford Subd.
- *120270 March 22 - Determining balance of payment under Vote 84d of Supplementary Estimates, to companies as defined in Freight Rates Reduction Act. (See page 301, 56 B.T.C.)
- 120271 March 22 - Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Corp. of the Twp. of Maidstone.
- 120272 March 22 - Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Arpin.
- 120273 March 22 - Approving changes in the automatic protection at crossing of the C.N.R. and the Service Road east of Oshawa, Ont., mileage 296.22 Oshawa Subd.
- 120274 March 22 - Authorizing the Town of Neepawa, Man., to reconstruct Mountain Ave. where it crosses the C.P.R. serving the Neepawa Salt Company, mileage 60.4 Minnedosa Subd.
- 120275 March 22 - Authorizing the City of Saint Jean, P.Q. to construct Industrial Blvd. across the C.P.R. at mileage 21.59 Adirondack Subd.

- 120276 March 22 - Approving changes in the automatic protection at crossing of the C.N.R. and Centre St., east of Brampton East, Ont., mileage 14.78 Halton Subd.
- 120277 March 22 - Authorizing the removal of the speed limitation at crossing of the C.P.R. and Symington Ave., in Toronto, Ont., mileage 5.4 North Toronto Subd.
- 120278 March 22 - Authorizing the N.S. Dept. of Highways to construct a subway to carry the Trans Canada Highway across and under the C.N.R., near Oxford, N.S., mileage 2.2 Oxford Subd.
- 120279 March 22 - Authorizing the C.N.R. to construct a spur track to serve St. Lawrence Fertilizers Limited, across the highway, in Salaberry de Valleyfield, P.Q., mileage 49.06 Valleyfield Subd.
- 120280 March 22 - Approving changes in the automatic protection at crossing of the C.N.R. and Riverside Drive in Ottawa, Ont., mileage 5.54 Beachburg Subd.
- 120281 March 22 - Authorizing the Quebec Dept. of Roads to widen des Erables Ave. where it crosses the C.N.R. in Clermont, P.Q., mileage 91.99 Murray Bay Subd.
- 120282 March 22 - Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 120283 March 23 - Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 16 near Prince Rupert, B.C., mileage 92.7 Skeena Subd.
- 120284 March 23 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highway No. 20 at St. Germain, P.Q., mileage 107.96 Drummondville Subd.
- 120285 March 23 - Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 10.17 to mileage 24.00 McAdam Subd., N.B.
- 120286 March 23 - Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 88.79 Belleville Subd., to mileage 9.13 Galt Subd., Ont.
- 120287 March 23 - Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 2.69 to mileage 3.20 Calgary Freight Terminal Line, Alta.
- 120288 March 23 - Authorizing the Quebec Dept. of Roads to reconstruct Vingt Road where it crosses the C.N.R. in St. Bruno de Montarville, mileage 60.56 St. Hyacinthe Subd.

- 120289 March 23 – Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie Telephonique St-Wenceslas.
- *120290 March 23 – Granting Licence to Scott Misener Steamships Limited (formerly Colonial Steamships Limited) under section 10 of the Transport Act. (See page 304, 56 B.T.C.)
- 120291 March 23 – Approving location of proposed additional flammable liquid storage facilities of Imperial Oil Limited at Milestone, Sask., C.P.R.
- 120292 March 23 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St-Jean-Baptiste-de-Roxton.
- *120293 March 23 – Approving Supplement No. 29 to Canadian Freight Classification No. 21. (See page 305, 56 B.T.C.)
- 120294 March 23 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120295 March 23 – Approving toll published in tariff filed by the C.P.R. under section 8 of the M.F.R.A.
- 120296 March 23 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120297 March 23 – Approving revisions to tariffs filed by the Bell Telephone Company.
- 120298 March 23 – Approving revisions to tariffs filed by the British Columbia Telephone Company.
- 120299 March 23 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120300 March 23 – Dismissing application of the C.N.R. for authority to remove the station agent at Zelma, Sask.
- 120301 March 23 – Approving changes in the automatic protection at crossing of the C.P.R. and the highway at mileage 23.83 Chalk River Subd., Almonte, Ont.
- 120302 March 23 – Authorizing the C.P.R. to remove the caretaker at Metiskow, Alta.
- 120303 March 23 – Authorizing the C.N.R. to remove the caretaker at Denholm, Sask.
- 120304 March 24 – Authorizing the Alberta Dept. of Highways to reconstruct the Canyon Creek Access Road where it crosses the N.A.R. at mileage 176.69 Slave Lake Subd.

- 120305 March 24 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 17 at Butze, Alta., mileage 103.05 Wainwright Subd.
- 120306 March 24 - Authorizing the C.P.R. to open for traffic its branch line of railway, to serve its Piggyback Yard and industrial area, in Trois-Rivieres, P.Q., commencing at mileage 80.9 Trois-Rivieres Subd.
- *120307 March 24 - Requiring the C.P.R., effective with the spring change of timetable on April 24, 1966, to institute a daily passenger train service in each direction between Sudbury and White River, Ont. (See page 306, 56 B.T.C.)
- 120308 March 24 - Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120309 March 24 - Dismissing application of the C.N.R. for authority to remove the station agent at Carmel, Sask.
- 120310 March 24 - Requiring the C.P.R. to improve the protection at crossing of its railway and West St. in Trenton, Ont., mileage 102.67 Belleville Subd.
- 120311 March 24 - Requiring the C.N.R. to install protection at the crossing of their railway and Township Road, Guelph, Ont., mileage 46.22 Guelph Subd.
- 120312 March 24 - Authorizing the Quebec Dept. of Roads to widen Rochefort Road where it crosses the C.N.R. at mileage 71.24 Drummondville Subd.
- 120313 March 24 - Requiring the C.N.R. to install protection at crossing of their railway and Highway No. 48, south of Baldwin, Ont., mileage 3.36 Sutton Spur, which junctions with the Bala Subd. at mileage 44.83.
- 120314 March 24 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and St. Roch Road, Ste. Louise, P.Q., mileage 48.41 Montmagny Subd.
- 120315 March 24 - Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 219.19 Redditt Subd., Man.
- 120316 March 24 - Authorizing the removal of the speed limitation at crossing of the C.N.R. and Du Manège St., in Beauport, P.Q., mileage 3.48 Murray Bay Subd.
- 120317 March 24 - Authorizing the C.N.R. to operate under the overhead bridge carrying Highway No. 16 across and over their tracks at mileage 28.80 Bulkley Subd., B.C.

- 120318 March 24 – Authorizing the C.N.R. to operate under the overhead bridges at mileages 1.18, 1.24, 1.25 and 1.28 Lachine Spur, in the City of Lachine, P.Q.
- 120319 March 24 – Approving location of proposed temporary Anhydrous Ammonia transfer facilities of the Double A. Fertilizer Service Limited at Coalhurst, Alta., C.P.R.
- 120320 March 24 – Requiring the N.Y.C.R. to install improved protection at crossing of its railway and Highway No. 3, near Caughnawaga, P.Q., mileage 53.7 Adirondack Junction and Malone Subd.
- 120321 March 24 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 75.93 Mont Joli Subd., to mileage 2.99 St. Romuald Subd., P.Q.
- 120322 March 24 – Authorizing the C.N.R. to operate under the overhead bridge at mileage 16.47 Telkwa Subd., B.C.
- 120323 March 24 – Approving plan showing the interlocking as installed at crossing of the C.N.R. at mileage 8.2 Pine Falls Subd., and of the C.P.R. at mileage 6.2 Lac du Bonnet Subd., at Birds Hill, Man.
- 120324 March 24 – Authorizing the C.N.R. to operate on the bridge at mileage 79.5 Drumheller Subd., Alta.
- 120325 March 24 – Authorizing the C.N.R. to operate on the bridge at mileage 100.0 Drumheller Subd., Alta.
- 120326 March 24 – Authorizing the C.N.R. to remove the station building at Robinson, Ont.
- 120327 March 24 – Authorizing the C.N.R. to remove the freight and passenger shelter at Clashmoor, Sask.

Canada The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Application of The Glidden Company Limited for a ruling with respect to the carload freight rate applicable on paint from West Toronto, Ont. to Edmonton, Alta.

File 40994.95

April 12, 1966

K.L. BRAIDWOOD
K.D.M. SPENCE, Q.C.
H.J.G. PYE

*The Glidden Company Ltd.
Canadian Pacific Railway Company
Canadian National Railways*

RULING

BY THE BOARD

APPLICATION

This application by The Glidden Company requests a ruling by the Board as to the freight rate applicable on a carload shipment of paint forwarded from West Toronto, Ont., on August 16, 1962 to Edmonton, Alta., via the Canadian Pacific Railway. The matter has been considered and dealt with on the written submissions of the applicant and of the Canadian Pacific and Canadian National Railways.

The matter involved concerns the payment of freight charges based on a freight rate published in an agreed charge versus the payment of lower charges based on a combination of freight rates published in an agreed charge and a regular freight tariff.

Applicant contends that the rate of 200 cents per 100 lbs. published in Supplement 55 to Agreed Charge C.T.C. (AC) No. 135 from West Toronto, Ont., to Winnipeg, Man., in conjunction with the rate of 126 cents published from Winnipeg, Man., to Edmonton, Alta. in Item 8485 of Canadian Pacific Railway Freight Tariff No. W. 975, C.T.C. No. W. 4240, has application to the carload shipment under review, in lieu of the higher rate of 335 cents per 100 lbs. from West Toronto, Ont. to Edmonton, Alta. published in Supplement No. 55 to Agreed Charge C.T.C. (AC) No. 135.

POSITION OF APPLICANT AND RAILWAYS

Applicant states that it is an established and recognized principle of rate making that (a) when more than one rate for the same commodity in like quantity, between the same points, is published in different tariffs the lowest applicable rate or combination of rates is to be applied, and (b) unless provision is made in a tariff restricting the use of a rate in the said tariff the rate or rates in such tariffs may be used in combination with other legal rates to arrive at an aggregate rate. It is stated that Agreed Charge No. 135 as effective on August 16, 1962 contained no restrictive rule prohibiting the use of any rate or rates therein in combination with other legal rates published in other tariffs to arrive at an aggregate rate. Applicant has succinctly set forth its position in the following paragraphs of its application;—

“ The Applicant contends that the legality of the application of the aggregate of rates to a point named in Agreed Charge No. 135, as effective on August 16, 1962, was permissible on one of two counts and/or on both counts, namely:

(1) A rate or rates from West Toronto, Ontario to Winnipeg, Manitoba, as published in Agreed Charge No. 135, as effective on August 16, 1962, can be applied in combination with other legal rates as published in other Tariffs to establish an aggregate of rates from West Toronto, Ont., to Edmonton, Alta., as published in Agreed Charge No. 135, provided there is no rule in Agreed Charge No. 135 which prohibits such use of the rates in combination with other rates in other Tariffs, and, further, that the lowest rate, or combination of rates, is the application rate.

(2) As the applicant under paragraph ‘B’ of Agreed Charge No. 135, is only obligated to ship not less than 90% of the traffic named in Agreed Charge No. 135, it is permissible to apply an aggregate of rates to any portion of the remaining 10% of the traffic.”

The railways maintain that by virtue of the provisions of Condition 6 of Agreed Charge C.T.C. (AC) 135, which reads;

6. Where the Agreed Charge provided to destinations specified herein used in conjunction with applicable rates therefrom to destinations not named in Paragraph “C(2)” makes a lower charge than applicable under existing tariffs, such combination will apply. In applying the provisions hereof, the railways shall not be required to haul the shipment into and out of the point over which the combination is constructed.

the rate to Winnipeg, Man. contained in Agreed Charge C.T.C. (AC) No. 135 could not be used in conjunction with regular tariff rate beyond Winnipeg on the carload that moved on August 16, 1963 due to the fact that the said agreed charge agreement provided a rate to Edmonton, Alta., and that further, the condition of the agreed charge above quoted is distinct in stating that the combination

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will apply where no rate is published in the Agreed Charge. The railways' position is summarized in the following extracts from their submissions:

" The wording of this Condition (Condition 6) states 'where the Agreed Charge provided to destinations specified herein used in conjunction with applicable rates therefrom to destinations not named...' . In other words, it is quite distinct in stating that the combination will apply where no rate is published in the Agreed Charge. Tariffs and Agreed Charges are not negative in their application. They are positive and contain only that rate which might be assessed or the condition under which such a rate will be assessed and certainly do not in any manner state what cannot be done."

" The statement made that the industry is obligated to ship only 90% of the traffic to Edmonton, Alberta is not quite correct. They are obligated to ship 90% of the traffic to all destinations in the Agreed Charge. The industry states that there was no restriction in the Agreed Charge at the time the Agreed Charge was signed. There was nothing in the Agreed Charge permitting a combination and this is the point made previously that Agreed Charges or tariffs are not negative in their application. By permitting the use of one Agreed Charge under Condition 6 of the tariff to destinations not named in the Agreed Charge, the carriers granted a further concession over and above the original conditions of the Agreed Charge."

REGULAR FREIGHT TARIFFS AND AGREED CHARGES

There is a difference in the application of agreed charges and regular freight tariffs. The tariffs of tolls that railway companies are authorized to issue under the Railway Act are accepted and recognized as the regular freight tariffs of the railways. There are published and filed in accordance with the provisions of the Railway Act and under regulations promulgated by the Board. Where these freight tariffs are filed and notice of issue given in accordance with the Railway Act and the Board's regulations, the rates, rules and regulations published therein are deemed to be the lawful tolls and take effect on the date stated in the tariff on which it is intended to take effect, and the railways thereafter are required to charge the rates as specified therein. The governing rate provisions appearing in regular freight tariffs are required to be stated in explicit terms so as to leave no doubt concerning the application of the rates in the tariffs.

In addition to the publication of regular freight tariffs, the railways have been given the further power to make agreed charges by special legislation, the Transport Act, which Act specifically overrides the provisions of the Railway Act. By means of the agreed charge the shipper undertakes by written contract to forward a guaranteed amount of traffic via the railway in exchange for satisfactory rates on his traffic. These Agreed Charge agreements are amended or changed from time to time as may be mutually agreed upon between the railways and the shippers.

CONCLUSION AND FINDING

The matter at issue is solely one of the interpretation of the provisions of Agreed Charge C.T.C. (AC) 135 applicable to a past shipment and does not concern the question of just and reasonable rates, nor fixed charges, for the future.

Agreed Charge C.T.C. (AC) 135 was executed effective March 5, 1956 between the railways and The Glidden Company and six other companies. Rates were agreed upon to nine destinations, including the rate of 335 cents per 100 lbs. to Edmonton, Alta., and also agreement was reached as to the stations to which combination rates were applicable. Each of these companies undertook under this agreement to forward via the railways not less than 90% of the volume of its traffic to the stations specified in the agreed charge. Since the execution of the agreed charge some 48 additional shippers have been added to the agreement upon the same terms and conditions by filing appropriate Notices of Intent with the Board.

The provisions of Condition 6 quoted on page 2 hereof appear clear that its application is "to destinations not named in" the agreed charge. The agreed charge does not provide that combination rates will apply if they make lower than the published agreed charge rates. It explicitly provides that combination rates to destinations not named in the agreed charge will apply where such combination rates make a lower charge than applicable under existing tariffs. In view of the fact that a through rate of 335 cents is provided in Agreed Charge C.T.C. (AC) 135 from West Toronto, Ont., to Edmonton, Alta., the combination rate claimed cannot displace this through rate under the provisions of the agreed charge.

The Board finds and so rules, that the shipment of paint forwarded from West Toronto, Ont., to Edmonton, Alta. on August 16, 1962 was subject to freight charges based upon the through rate of 335 cents published in Agreed Charge C.T.C. (AC) 135. The application of The Glidden Company Limited should be dismissed.

(Sgd.) Rod Kerr

(Sgd.) A.S. Kirk
Commissioner

OTTAWA, ONT.,
April 12. 1966

56 B.T.C.

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 120620

**TUESDAY, THE 26TH DAY OF
APRIL, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.

H.H. GRIFFIN,
Asst. Chief Commissioner.

J.E. DUMONTIER,
Deputy Chief Commissioner.

J.M. WOODARD,
Commissioner.

W.R. IRWIN,
Commissioner.

A.S. KIRK,
Commissioner.

*IN THE MATTER OF General
Order No. E-10, General Regulations
Regarding Pipe Crossings under
Railways:*

File No. 9473

IT IS HEREBY ORDERED AS FOLLOWS:

General Order No. E-10 is amended by deleting sub-clause (e) of clause 5 thereof and substituting the following sub-clause (e) therefor:

(e) Before any work of laying, renewing, repairing, or removing the said pipe is begun, the party proposing to do so shall give to the local superintendent of the railway company at least 48 hours' prior notice thereof in writing to enable the railway company to appoint an Inspector to see that the work is performed in such a manner as shall, in all respects, comply with these regulations; except that in cases of emergency, the appropriate official of the railway company shall be notified immediately. The amount of wages and expenses of such Inspector, as well as all other costs actually incurred by the Railway consequent upon and directly attributable to the laying, renewing, operating or removing of the said pipe, shall be paid by the party owning the pipe or pipes upon receipt from the Railway Company of a statement showing in reasonable detail the particulars of such wages, expenses and said other costs, if any, except that in the case of a

Municipal Corporation desiring to lay a pipe under the railway on a highway which is senior to the railway, the cost of such inspection and other expenses of the Railway shall be borne by the Railway.

(SGD) ROD. KERR,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

NOTE: A new page 62 of Part III of the printed Consolidation of General Orders of the Board which came into force on February 1, 1965, will be issued embodying the above amendment and replacing the existing page 62.

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Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

THE MATTER OF the application of Trans-Canada Pipe Lines Limited for an Order under subsection (2) of section 3 of An Act Respecting Trans-Canada Pipe Lines Limited 1954, 2-3 Eliz. II, chap. 80, approving by-law No. 17 of Trans-Canada Pipe Lines Limited enacted by the Directors of the said Company on March 8, 1966, which by-law provides for the creation of a single class of preferred shares consisting of one million preferred shares with preferences, privileges and other special rights, restrictions, conditions and limitations attaching thereto, as in the said by-law more specifically set out.

*File No. 48867.11
April 19, 1966.*

BEFORE:

ROD. KERR, Q.C.,
H.H. GRIFFIN,
W.R. IRWIN,

*Chief Commissioner.
Assistant Chief Commissioner.
Commissioner.*

APPEARANCES:

JOHN H.C. CLARRY, Q.C.,
D.E. SMITH,
and
MARTIN BERMAN,
R.D. VIETS,

*for Trans-Canada Pipe Lines
Limited.*

for the Secretary of State.

HEARD AT OTTAWA, ONTARIO on APRIL 18 and 19, 1966.

ORAL JUDGMENT

THE CHIEF COMMISSIONER: We are prepared to give the Board's decision at this time. I don't think it is necessary to make any extended remarks or give any reasons at length. We are satisfied that the company has made out a sufficiently good case to justify the Board in granting the application and no reason has been shown to us in the proceedings or in any other way for a refusal on our part to grant the application. Therefore our decision is that we will grant the application.

I may say that the order will contain a provision to the effect that the company shall not issue nor sell any of the preferred shares created by the by-law No. 17 at any time after the 31st of December 1967 without further approval of the Board. This provision is being put in the order in accordance with the assurance given on behalf of the company to that effect.

I think there is nothing further that I need say. Perhaps one of my colleagues may wish to say something.

THE ASSISTANT CHIEF: Well, I only wish, Mr. Clarry, to be sure that there is no misunderstanding in respect of the assurance which we understood that we have and that is that it is not the intention of the company to sell and it will not sell any shares of the proposed issue in the United States of America.

MR. CLARRY: That is correct, Mr. Assistant Chief Commissioner. The company is giving that undertaking to the Board.

THE CHIEF COMMISSIONER: There is nothing more that I need say then at this time. If you, Mr. Clarry, will get in touch with our general counsel, the terms of the order, the wording of it, can be agreed and if it is agreed by you two it can be submitted to the Board for signature today.

MR. CLARRY: Thank you, Mr. Chief Commissioner.

— OTTAWA SITTINGS CONCLUDED —

ORDER NO. 120528

**TUESDAY, THE 19TH DAY OF
APRIL, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.
H.H. GRIFFIN,
Asst. Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of Trans-Canada Pipe Lines Limited, hereinafter called the "Applicant", under the provisions of Chap. 92 of the Statutes of Canada, 15 Geo. VI, as amended by Chap. 80 of the Statutes of Canada, 2-3 Eliz. II, for an Order approving By-law No. 17 of Trans-Canada Pipe Lines Limited providing for the creation of a class of preferred shares:

File No. 48867.11

UPON hearing the application at the sittings of the Board held at Ottawa on the 18th day of April, 1966, in the presence of Counsel for the Applicant, and Mr. R.D. Viets appearing for the Secretary of State, no one appearing in opposition; and upon hearing what was alleged; and upon reading what has been filed in support of the application, public notice of such application having been published in The Canada Gazette and served upon the Minister of Trade and Commerce, the Minister of Transport, the Secretary of State of Canada, the National Energy Board, Montreal Trust Company, National Trust Company, Limited and the Attorneys General of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec; and it appearing that By-law No. 17 of the Applicant Company has been passed by the directors of the Company and sanctioned by at least two-thirds of the votes cast at a special general meeting of the common shareholders of the Company duly called for considering the same at Calgary, Alberta, on April 12, 1966, and that such by-law is necessary in order to enable the Applicant Company to issue preferred shares; and upon the Applicant's undertaking that the Company will not issue nor sell any preferred shares as created by the By-law at any time after the thirty-first day of December, 1967, without further approval of the Board.

IT IS HEREBY ORDERED AS FOLLOWS:

1. By-law No. 17 of the Applicant Company, on file with the Board and marked A under file No. 48867.11, is approved.

2. In accordance with its undertaking in that behalf the Applicant shall not issue nor sell any of the preferred shares created by said By-law No. 17 at any time after the thirty-first day of December, 1967, without further approval of the Board.

(SGD) ROD. KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120394

TUESDAY, THE 5TH DAY OF
APRIL, A.D. 1966.

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Freight Asso-
ciation under Part III of General
Order No. T-1, for approval of
Supplement No. 31 to Canadian
Freight Classification No. 21,
C.T.C. (F) No. 1681, on file with
the Board under file No. 49084.31:*

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 31 to Canadian Freight Classification No. 21,
C.T.C. (F) No. 1681, on file with the Board under file No. 49084.31, is approved.

(SGD) JOHN M. WOODARD,
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120510

**FRIDAY, THE 15TH DAY OF
APRIL, A.D. 1966.**

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF Orders
Nos. 56302 and 56303, both dated
August 18, 1938, and of Order No.
85910, dated April 5, 1955, relating
to the French text of the bill of
lading "order" and "straight":*

File No. 3678

WHEREAS the French translation of General Order No. 41, dated July 15, 1909, and of General Order No. 792, dated February 22, 1954, was approved by said Orders Nos. 56302, 56303 and 85910;

AND WHEREAS the said Orders were consolidated under General Order No. T-5, dated February 1, 1965;

AND WHEREAS the said General Order No. T-5 has been issued in both English and French—

IT IS HEREBY ORDERED AS FOLLOWS:

1. Order No. 85910, dated April 5, 1955, is rescinded.
2. Orders Nos. 56302 and 56303, both dated August 18, 1938, are rescinded insofar as they are applicable to "straight" and "order" bills of lading.

(SGD) **J.E. DUMONTIER,**
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120562

**THURSDAY, THE 21ST DAY OF
APRIL, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.

H.H. GRIFFIN,
Asst. Chief Commissioner.

J.E. DUMONTIER,
Deputy Chief Commissioner.

*IN THE MATTER OF Vote 84e
of the Supplementary Estimates (E)
1965-66, and Appropriation Act
No. 4, 1966:*

File No. 48771.3

WHEREAS Vote No. 84e of the Supplementary Estimates (E) for the fiscal year ending March 31, 1966, is as follows:

Vote 84e – To increase from \$70,000,000 to \$95,000,000 the payments authorized by Vote 84d of Supplementary Estimates (D) 1965-66 to railway companies to maintain the rates of freight traffic at a reduced level and to extend the purposes of the said Vote to authorize payments to the said companies in respect of the calendar year 1964\$25,000,000.

AND WHEREAS Vote No. 84d of the Supplementary Estimates (D) for the fiscal year ending March 31, 1966, was as follows:

Vote 84d – To provide payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada of an aggregate amount of \$20,000,000 in respect of the period April 1, 1965, to March 31, 1966, to be paid in instalments at such times as may be determined by the said Board for the purpose of reimbursing the said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase, instead of 17% as authorized by the said Order; and to provide payments to the said companies of an aggregate amount in respect of the calendar year 1965 of \$50,000,000 to be paid in instalments at such times and in accordance with such methods of allocation as may be determined by the said Board for the maintenance by such companies of the rates of freight traffic at the said reduced level \$70,000,000.

AND WHEREAS the said Vote 84e was authorized for payment by Appropriation Act No. 4, 1966, assented to on March 29, 1966

AND WHEREAS the Board has been advised that seventy-five per cent of Vote 84e, being the amount of \$18,750,000 may be allocated at this time.

AND WHEREAS the Board considers that in determining the method of allocation and the times of payment in respect of the said \$18,750,000 it should have regard to the freight traffic carried by the said companies at the said reduced level of rates based on an 8% increase instead of 17% as authorized by Board Order No. 96300, the allocation of \$50,000,000 in respect of the calendar year 1964, under Board Order No. 116169, dated December 3, 1964, and the allocation of \$50,000,000 in respect of the calendar year 1965 under Board Orders No. 119995, dated February 14, 1966, and No. 120270, dated March 22, 1966.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

1. Subject to paragraph two the method of allocation of \$6,000,000 of the said \$18,750,000 to companies subject to Order No. 96300 shall be the allocation to each company of an amount that bears approximately the same relation to \$6,000,000 as the amount paid to the company in respect of reimbursement claims for diminution in aggregate gross revenues attributable to such company maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by Board Order No. 96300 during the twelve months January 1 to December 31, 1964, bears to the total amount paid to all companies in respect of such claims for the same period.

2. After deducting from the said \$6,000,000 the amount payable therefrom to companies other than Canadian National Railways and Canadian Pacific Railway Company in accordance with paragraph one, the remainder shall be allocated 60% to Canadian National Railways and 40% to Canadian Pacific Railway Company.

3. Subject to paragraph four the method of allocation of the remaining \$12,750,000 of \$18,750,000 to companies subject to Order No. 96300 shall be the allocation to each company of an amount that bears approximately the same relation to \$12,750,000 as the amount paid to the company in respect of reimbursement claims for diminution in aggregate gross revenues attributable to such company maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by Board Order No. 96300 during the twelve months January 1 to December 31, 1965, bears to the total amount paid to all companies in respect of such claims for the same period.

4. After deducting from the said \$12,750,000 the amount payable therefrom to companies other than Canadian National Railways and Canadian Pacific Railway Company in accordance with paragraph three, the remainder shall be allocated 60% to Canadian National Railways and 40% to Canadian Pacific Railway Company.

5. The Board may make any amendments to this Order that it deems necessary in order to equitably allocate the amount authorized for payment.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120632

**TUESDAY, THE 26TH DAY OF
APRIL, A.D. 1966**

ROD KERR, Q.C.

Chief Commissioner.

W.R. IRWIN,

Commissioner.

A.S. KIRK,

Commissioner.

*IN THE MATTER OF the applica-
tion of The Coal Operators' As-
sociation of Western Canada
suspension of proposed changes
demurrage regulations on exp
traffic:*

File No. 1700.4

WHEREAS tariffs containing changes in demurrage regulations applica on export traffic forwarded to Canadian ports have been filed with the Board statutory notice effective May 1, 1966; and

WHEREAS the said tariffs have, amongst other effects, the effect of reduc the free time allowed for unloading cars at ports; and

WHEREAS The Coal Operators' Association of Western Canada and oth applied to the Board on April 20th, 1966, to suspend the proposed tariff app cable on export traffic to Pacific ports; and

WHEREAS the Board considers that the said tariff ought not to come i effect until after the parties affected have had an opportunity to file submissi thereon;

IT IS HEREBY ORDERED AS FOLLOWS:

The effective date of the following tariffs is postponed, pending furt investigation, until June 27, 1966:

Agent G.H. Mitchell's Tariff No. 114-1, C.T.C. (F) 738

Item 400 on 29th revised Page 135 and 7th Revised Page 135-A to Canad National Railways Tariff C.R. 200, C.T.C. (F) E.1694.

Item 28 on 18th Revised Page 20 and 5th Revised Page 20A to Canadian Pac Railway Company Tariff No. E3050, C.T.C. (F) No. E.4126.

Item 95 on 3rd Revised Page 32 to Dominion Atlantic Railway Company Tar No. 131-A, C.T.C. No. 1198.

Item 175 on 3rd Revised Page 68 and 1st Revised Page 68-A to Quebec Cen Railway Company Tariff No. 220, C.T.C. (F) No. 1105.

(SGD) ROD KERR,
Chief Commissioner,

The Board of Transport Commissioners for Can

**ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, FEBRUARY, 1966**

	<i>Accidents</i>	<i>Killed</i>	<i>Injured</i>
Railway Accidents	246	13	244
Level Crossing Accidents	<u>46</u>	<u>10</u>	<u>59</u>
	<u>292</u>	<u>23</u>	<u>303</u>

	<i>Killed</i>	<i>Injured</i>
Passengers	—	51
Employees	1	178
Others	<u>22</u>	<u>74</u>
	<u>23</u>	<u>303</u>

Of the 46 accidents at Highway Crossings, 30 occurred where standard railway crossing signs are located, 16 where additional forms of protection are in use, 24 after Sunrise and 22 after Sunset.

OTTAWA, ONT.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 120328 March 25 – Authorizing the C.P.R. to operate on the track across Highway No. 41, in Joliette, P.Q., to serve Independent Cement Inc., mileage 4.78 St. Gabriel Subd.
- 120329 March 25 – Amending Order No. 117740, which authorized the B.C. Dept. of Highways to widen Highway No. 18 (Cowichan Lake Road) where it crosses the C.P.R. at Duncan, B.C., mileage 39.70 Victoria Subd.
- 120330 March 25 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 44, east of Carp, Ont., mileage 7.35 Renfrew Subd.
- 120331 March 25 – Approving changes in the automatic protection at crossing of the C.N.R. and Mill Village-Port Medway Road, in Queens County, N.S., mileage 100.45 Chester Subd.
- 120332 March 25 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 1.85 Turnberry Subd., Sask.
- 120333 March 25 – Authorizing the C.P.R. to remove the caretaker at Wymark, Sask.
- 120334 March 25 – Approving location of proposed additional flammable liquid storage facilities of the Lloydminster and District Agricultural Co-Operative Assoc., Limited, at Neilburg, Sask. C.P.R.
- 120335 March 25 – Amending Order No. 116175, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Mitchell Sideroad in Jacquet River, N.B., mileage 138.11 Newcastle Subd.
- 120336 March 25 – Approving tolls published in tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 120337 March 25 – Amending Order No. 110379, re apportionment of cost of installing automatic protection at several crossings of the C.N.R. on their Dundas Subd., in London, Ont.
- 120338 March 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 11.97 Murray Bay Subd., to mileage 1.62 Champlain Subd., P.Q.
- 120339 March 25 – Authorizing the Quebec Dept. of Roads to widen Highway No. 2-A where it crosses the C.N.R. at mileage 16.34 Montmagny Subd.

- 120340 March 25 - Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 18.62 Murray Bay Subd., to mileage 3.00 Champlain Subd., P.Q.
- 120341 March 25 - Amending Order No. 116282, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Provincial Road No. 268 at Birch River, Man., mileage 21.86 Erwood Subd.
- 120342 March 25 - Authorizing the Township of West Zorra, Ont., to reconstruct the Township Road where it crosses the C.P.R. at mileage 91.34 Galt Subd.
- 120343 March 25 - Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 14.00 Murray Bay Subd., to mileage 0.24 Champlain Subd., P.Q.
- 120344 March 25 - Amending Order No. 114927, which authorized the Munic. of Metropolitan Toronto to construct a subway to carry Leslie St. across and under the C.N.R. at mileage 11.86 Bala Subd.
- *120345 March 25 - Amending Order No. 119709, which granted leave to the C.N.R. to use and enjoy jointly with the C.P.R. certain trackage between Smiths Falls and Brockville, Ont. (See page 308, 56 B.T.C.)
- 120346 March 25 - Amending Order No. 114797, which authorized the C.N.R. to install automatic protection at crossing of their railway and 33rd St. in Saskatoon, Sask., mileage 3.07 Warman Subd.
- 120347 March 28 - Approving location of proposed additional storage facilities of Shell Canada Limited at Melita, Man., C.P.R.
- 120348 March 28 - Authorizing the City of Chicoutimi, P.Q., to reconstruct Bosse St. where it crosses the C.N.R. at mileage 114.20 Jonquiere Subd.
- 120349 March 28 - Authorizing the Quebec Dept. of Roads to relocate Villeroy-Deschaillons Highway where it crosses the C.N.R. from mileage 10.10 to mileage 9.93 Deschaillons Spur which junctions with the Drummondville Subd. at mileage 46.22.
- 120350 March 28 - Requiring the C.N.R. to install protection at crossing of their railway and Highway No. 7, north of Denfield, Ont., mileage 12.37 Exeter Subd.
- 120351 March 28 - Authorizing the Highways Dept. of Manitoba to connect and synchronize the traffic signals at intersection of Highways Nos. 4 and 59 with the automatic protection at crossing of the C.P.R. and Highway No. 4 near Gonor, mileage 15.67 Lac du Bonnet Subd.

- 120352 March 28 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. at mileage 78.53 Kerrobert Subd., Sask.
- 120353 March 28 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 101.60 Drumheller Subd., Alta.
- 120354 March 28 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 103.55 Yale Subd., B.C.
- 120355 March 28 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Onezime Gagnon Blvd., in St. Felicien, P.Q., mileage 30.77 Roberval Subd.
- 120356 March 28 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 101.29 Stettler Subd., Alta.
- 120357 March 28 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Notre Dame St., Drummondville, P.Q., mileage 98.72 Drummondville Subd.
- 120358 March 28 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Highway No. 7, mileage 4.44 Wilkie Subd., Sask.
- 120359 March 29 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Rosedale Road, B.C., mileage 64.95 Yale Subd.
- 120360 March 29 – Requiring the C.N.R. to improve the crossing of their railway and Haldimand County Road No. 12 in Nelles Corners, Ont., mileage 54.51 Cayuga Subd.
- 120361 March 29 – Authorizing the Quebec Dept. of Roads to construct a temporary connecting road between Pitt St. and La Verendrye Blvd., crossing the C.N.R. at mileage 0.66 Cote St. Paul Spur, Montreal, P.Q.
- 120362 March 29 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 97.45 Three Hills Subd., Alta.
- 120363 March 29 – Requiring the C.N.R. to install protection at crossing of the C.N.R. and Ellerslie Road, in Ellerslie, P.E.I., mileage 23.42 Tignish Subd.
- 120364 March 29 – Amending Order No. 113417, re apportionment of cost of constructing an overhead bridge to carry alternate Highway

No. 2 across and over the C.N.R. at mileage 14.63 Sussex Subd., N.B.

- *120365 March 29 – Approving Supplement No. 30 to Canadian Freight Classification No. 21. (See page 309, 56 B.T.C.)
- 120366 March 29 – Approving tolls published in tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 120367 March 29 – Authorizing the Toronto Transit Commission to construct a subway to carry St. Clair Avenue East across and under the C.N.R. at mileage 1.4 Geco Spur, Twp. of Scarborough, Ont.
- *120368 March 29 – Approving application of The Bell Telephone Company of Canada for interim increases of 2% and 5% in the basis of settlement as set forth in Appendix "B" and Alternate Appendix "B" of Traffic Agreement. (See page 310, 56 B.T.C.)
- 120369 March 30 – Approving location of proposed new office building and transfer facilities of Imperial Oil Limited at Nampa, Alta. N.A.R.
- 120370 March 30 – Approving location of proposed flammable liquid storage facilities of Texaco Canada Limited at Grantbrook, B.C., C.N.R.
- 120371 March 31 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120372 March 31 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120373 March 31 – Approving changes in the automatic protection at crossing of the C.N.R. and Springvale Road at Armdale, N.S., mileage 1.21 Chester Subd.
- 120374 March 31 – Authorizing the Rural Munic. of Sherwood No. 159 to construct the Municipal Road across the C.N.R. at mileage 89.37 Qu'Appelle Subd., Sask.
- 120375 March 31 – Amending Order No. 119453, which authorized the installation of improved protection at crossing of the N.Y.C.R. and Essex County Road No. 20, mileage 211.04 Main Line Subd. Ont.
- 120376 March 31 – Authorizing McMaster University to construct a combined pedestrian-vehicular overhead bridge across and over the T.H. & B.R. in Hamilton, Ont., mileage 0.64 Dundas Subd.
- 120377 April 1 – Approving location of proposed liquefied petroleum storage facilities of Suburban Propane Limited at Calgary, Alta., C.P.R.

- 120378 April 1 - Approving location of flammable liquid storage facilities of Irving Oil Company Limited at Shelburne, N.S., C.N.R.
- 120379 April 1 - Authorizing the removal of the speed limitation at crossing of the D.A.R. and Highway No. 1 at Mount Denson, N.S., mileage 36.71 Halifax Subd.
- 120380 April 1 - Approving location of proposed temporary Anhydrous Ammonia Transfer facilities of Canadian Industries Limited at Elmstead, Ont., C.P.R.
- 120381 April 4 - Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at mileage 58.27 Bulkley Subd., B.C.
- 120382 April 4 - Authorizing the C.N.R. to operate on the siding serving Cyanamid of Canada Limited, in Newcastle, Ont.
- 120383 April 4 - Authorizing the Highways Dept. of Manitoba to reconstruct Provincial Road No. 221 where it crosses the C.N.R. at mileage 8.56 Oak Point Subd.
- 120384 April 4 - Authorizing the Ontario Dept. of Highways to construct an overhead bridge to carry Highway No. 403 across and over The Lake Erie & Northern Railway at mileage 16.08 Port Dover to Galt Subd.
- 120385 April 4 - Approving overhead clearances on the siding serving Nichols Chemical Company Ltd. at mileage 119.2 Cascade Subd., at Burnaby, B.C., C.P.R.
- 120386 April 4 - Approving overhead and side clearances on the siding serving the Wimborne Plant of Socony Mobil Oil of Canada Limited, near Wimborne, Alta., C.P.R.
- 120387 April 4 - Authorizing the C.N.R. to construct a temporary bridge to support their eastward main track in Niagara Falls, Ont.
- 120388 April 4 - Requiring the Saskatchewan Dept. of Highways & Transportation to pay the cost of maintenance of the crossing of Grid Road and the C.P.R. at mileage 56.96 Wood Mountain Subd.
- 120389 April 4 - Approving location of the flammable liquid storage facilities of the British American Oil Company Limited at Terrace, B.C., C.N.R.
- 120390 April 4 - Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 100, near Winnipeg, Man., mileage 3.55 Cabot Subd.
- 120391 April 4 - Authorizing the County of Newell No. 4, Alta., to construct County Road across the C.P.R. at mileage 90.27 Brooks Subd.

- 120392 April 5 - Authorizing the removal of the speed limitation at crossing of the C.P.R. at Bullshead, Alta., mileage 6.85 Taber Subd.
- 120393 April 5 - Authorizing the C.N.R. to operate on the bridge at mileage 50.5 Brazeau Subd., Alta.
- *120394 April 5 - Approving Supplement No. 31 to Canadian Freight Classification No. 21, submitted by Canadian Freight Association. (See page 345, 56 B.T.C.)
- 120395 April 5 - Rescinding Order No. 49258 which authorized the Dept. of Northern Development of Ontario to construct a highway crossing over the C.N.R. in the District of Cochrane, Ont.
- 120396 April 5 - Authorizing the C.P.R. to construct a reinforced concrete rock shed at west end of its tunnel at mileage 101.2 Thompson Subd., B.C.
- 120397 April 5 - Approving changes in the automatic protection at crossing of the C.N.R. and Martingrove Road, in Rexdale, Ont., mileage 11.73 Weston Subd.
- 120398 April 5 - Authorizing the C.N.R. to remove the caretaker and retire the station building at Hunta, Ont.
- 120399 April 5 - Authorizing the C.P.R. to operate under the Alyth Bridge in Calgary, Alta.
- 120400 April 5 - Approving changes in the automatic protection at crossing of the C.P.R. and Highway No. 69 near Lake Joseph, Ont., mileage 4.78 Parry Sound Subd.
- 120401 April 5 - Authorizing the C.N.R. to operate on the trackage serving the Dept. of Highways of P.E.I. and the Maritime Co-operative Services, across Exhibition Drive in Parkdale Industrial Park, P.E.I.
- 120402 April 5 - Approving side clearances on Industrial Track I-D, opposite the buildings of Canadian Baroid Sales and Dominion Fruit Ltd. in Peace River, Alta., N.A.R.
- 120403 April 5 - Approving location of proposed diesel fuel oil storage facilities of the C.P.R. at Shaunavon, Sask.
- 120404 April 5 - Approving changes in the automatic protection at crossing of the C.P.R. and the highway at mileage 12.51 Parry Sound Subd., Ont.
- 120405 April 5 - Authorizing the C.N.R. to operate on the bridge crossing the Bourlamaque River, P.Q., mileage 31.6 Val d'Or Subd.
- 120406 April 5 - Authorizing the C.N.R. to operate over the trackage of the Montreal Terminals under the Terminal Tower Building, in Montreal, P.Q.

- 120407 April 5 - Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 2A, Rivière Ouelle, P.Q., mileage 33.61 Montmagny Subd.
- 120408 April 5 - Approving toll published in tariff filed under sections 3 and 8 of the M.F.R.A.
- 120409 April 5 - Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120410 April 5 - Amending Order No. 119121 which authorized the N.S. Dept. of Highways to open a public crossing of Park Road across the D.A.R. in Kingston, N.S.
- 120411 April 6 - Amending Order No. 116585, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Carleton County Road No. 10, mileage 3.89 Smiths Falls Subd., Ont.
- 120412 April 6 - Amending Order No. 115034, re apportionment of cost of reconstructing the overhead bridge carrying Hopkins St. across and over the C.N.R. in the Township of Whitby, Ont., mileage 303.74 Oshawa Subd.
- 120413 April 6 - Amending Order No. 116617, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and Carleton County Road No. 41, Township of Nepean, Ont., mileage 5.10 Smiths Falls Subd.
- 120414 April 6 - Requiring the C.N.R. to erect signboards at certain crossings of their railway, and to mark same with reflective material.
- 120415 April 6 - Authorizing the C.P.R. to operate over the culvert and fill at mileage 30.84 Alberta Central Subd., near Eckville, Alta.
- 120416 April 6 - Approving changes in the automatic protection at crossing of the C.P.R. and Quarry Road in Cowansville, P.Q., mileage 7.78 Newport Subd.
- 120417 April 6 - Approving less than standard clearances on the siding serving Malpass Lumber and Poles Limited at Enderby, B.C., mileage 21.7 Okanagan Subd., C.P.R.
- 120418 April 6 - Authorizing the Highways Dept. of Manitoba to construct an overhead bridge to carry Provincial Trunk Highway No. 1, Portage la Prairie By-Pass, across and over the C.P.R., at mileage 58.96 Carberry Subd.
- 120419 April 6 - Authorizing the C.P.R. to close, within the limits of its right of way, the public road which crosses its right of way at mileage 91.3 Sherbrooke Subd., Austin, P.Q.

- 120420 April 6 – Authorizing the Rural Munic. of Bayne No. 371 to construct the municipal road across the C.N.R. at mileage 26.03 Aberdeen Subd., Sask.
- 120421 April 6 – Approving less than standard clearance signs on the track serving Aspen P.V. Lumber Limited at Merritt, B.C., C.P.R.
- 120422 April 6 – Authorizing the T.H. & B.R. to make changes in its signals at Coyle Yard, Welland, Ont., between mileages 0.50 and 3.50 Welland Subd.
- 120423 April 6 – Authorizing the C.N.R. to remove the station agent at Vawn, Sask., provided a resident caretaker is appointed and available for duty.
- 120424 April 6 – Authorizing the C.N.R. to operate under the overhead bridge carrying Range Roads V and VI across and over their track at mileage 26.33 Rouyn Subd., P.Q.
- 120425 April 6 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120426 April 6 – Approving tolls published in tariffs filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 120427 April 6 – Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 120428 April 6 – Approving toll published in tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 120429 April 6 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Davis Drive, in Newmarket, Ont., mileage 34.15 Newmarket Subd.
- 120430 April 6 – Authorizing the Highways Dept. of Manitoba to construct Provincial Trunk Highway No. 1 West Portage By-Pass across the C.N.R. at mileage 2.20 Pleasant Point Subd.
- 120431 April 6 – Authorizing the C.P.R. to operate on the siding serving Pak Well Produce Limited across 1st Avenue South, in Vauxhall, Alta., mileage 49.6 Suffield Subd.
- 120432 April 6 – Authorizing the Quebec Dept. of Roads to widen Montee Ste-Marie where it crosses the C.N.R. in St-Polycarpe, P.Q., mileage 4.50 Alexandria Subd.
- 120433 April 6 – Approving location of proposed Ammonium Nitrate storage facility of the North Battleford Co-Operative Association Limited at Cutknife, Sask., C.P.R.

- 120434 April 6 – Authorizing the C.N.R. to remove the station agent at Totzke, Sask., provided a resident caretaker is appointed and available for duty.
- 120435 April 7 – Requiring the C.P.R. to install automatic protection at crossing of its railway and Provincial Road No. 352, at Sidney, Man., mileage 93.27 Carberry Subd.
- 120436 April 7 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Telephone du Nord de Quebec Limitee (Division de Val d'Or).
- 120437 April 7 – Amending Order No. 119973, which authorized construction of the overhead fuel conveyor across the C.P.R. at mileage 9.09 Westminster Branch, Vancouver & Lulu Island Subd., and across the C.N.R. at mileage 2.29 Lulu Island Subd., at foot of 18th St., New Westminster, B.C.
- 120438 April 7 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120439 April 7 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Bay Ridges Road, Belleville, Ont., mileage 92.54 Belleville Subd.
- 120440 April 7 – Approving changes in the automatic protection at crossing of the C.P.R. and Blackstone Road, Twp. of Foley, Ont., mileage 13.67 Parry Sound Subd.
- 120441 April 7 – Approving changes in the automatic protection at crossing of the C.N.R. and Memorial Ave. in Port Arthur, Ont., mileage 2.49 Kashabowie Subd.
- 120442 April 7 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 25.18 Murray Bay Subd., to mileage 0.46 Champlain Subd., P.Q.
- 120443 April 7 – Approving location of proposed flammable liquid storage facilities of Imperial Oil Limited at St. George, N.B., C.P.R.
- 120444 April 7 – Authorizing the Ontario Dept. of Highways to reconstruct the overhead bridge carrying Highway No. 6 across the C.P.R. at Puslinch Station, Ont., mileage 44.9 Galt Subd.
- 120445 April 7 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Montbrun St., in Boucherville, P.Q., mileage 8.83 Sorel Subd.
- 120446 April 7 – Authorizing the Township of Morrison, Ont., to relocate and widen Sparrow Lake Road East at crossing of C.N.R. from mileage 106.47 to mileage 106.44 Newmarket Subd.

- 120447 April 7 - Authorizing the Quebec Dept. of Roads to synchronize the traffic signals at crossing of Ste. Helene St. with Desaulniers Blvd. with the automatic protection at crossing of Ste. Helene St. and the C.N.R., mileage 1.65 Sorel Subd.
- 120448 April 7 - Approving changes in the automatic protection at crossing of the C.N.R. and St. François St. in La Tuque, P.Q., mileage 122.07 La Tuque Subd.
- 120449 April 7 - Requiring the C.N.R. to install improved protection at crossing of their railway and Stanley St., Niagara Falls, Ont., mileage 2.84 Grimsby Subd.
- 120450 April 7 - Requiring the C.P.R. to install protection at crossing of its railway and Pruches Road in the Munic. of Notre Dame de Portneuf, P.Q., mileage 127.14 Quebec Subd.
- 120451 April 7 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Du Pont Road in St. Louis de Gonzague, P.Q., mileage 33.82 Valleyfield Subd.
- 120452 April 7 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Augusta Concession Road in the Munic. of Ste. Angele, P.Q., mileage 72.12 Joliette Subd.
- 120453 April 7 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Stanhope Road in St. Mathieu de Dixville, P.Q., mileage 16.35 Sherbrooke Subd.
- 120454 April 7 - Requiring the C.P.R. to install automatic protection at crossing of its railway and Road No. 210 at Malakwa, B.C., mileage 32.47 Shuswap Subd.
- 120455 April 7 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Fournier Road in Cap St. Ignace, P.Q., mileage 73.53 Montmagny Subd.
- 120456 April 7 - Approving Supplements to Traffic Agreement between The Bell Telephone Company of Canada and Compagnie de Telephone de la Petite Nation.
- 120457 April 7 - Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and La Tuque Telephone Company.
- 120458 April 7 - Approving location of proposed Ammonium Nitrate storage facility of the Neepawa Consumers Co-Operative Limited at Neepawa, Man., C.N.R.
- 120459 April 7 - Requiring the N.B. Dept. of Public Works to improve the view lines at crossing of the highway and the C.N.R. near Catamount, N.B., mileage 13.21 Gort Subd.

- 120460 April 7 – Authorizing the C.N.R. to operate through the interlocking plant at Lift Bridge No. 10, Welland Canal, Ont., mileage 3.98 Thorold Subd.
- 120461 April 7 – Approving changes in the automatic protection at crossing of the C.P.R. and Amirault Road, Saulnierville, N.S., mileage 54.0 Yarmouth Subd.
- 120462 April 7 – Amending Order No. 115213, re apportionment of cost of constructing a subway to carry Highway No. 69 across and under the C.P.R. at mileage 114.49 MacTier Subd., Ont.
- 120463 April 7 – Authorizing the Highways Dept. of Manitoba to construct an overhead bridge to carry Provincial Trunk Highway No. 10 across and over the C.N.R. at mileage 84.5 Flin Flon Subd.
- 120464 April 7 – Authorizing payment to the Nipissing Central Railway Co., covering the cost of placing reflective markings on the sides of its railway cars.
- 120465 April 7 – Authorizing the Ontario Dept. of Highways to reconstruct Highway No. 11 where it crosses the C.N.R. in Indian Reserve No. 18 B, District of Rainy River, mileage 85.13 Fort Frances Subd.
- 120466 April 12 – Approving application of the C.N.R. for the installation of a switch without an electric lock in their C.T.C., at mileage 19.70 Bala Subd., Ont.
- 120467 April 12 – Approving C.P.R. signals as installed on its MacTier Subd., between mileages 0.0 and 24.0, Ont.
- 120468 April 12 – Amending Order No. 116242, approving overhead clearance under the bridge to carry the Ottawa River Parkway across and over the C.P.R. in Ottawa, Ont., mileage 91.25 M. & O. Subd.
- 120469 April 12 – Rescinding Order No. 111940, which authorized the B.C. Dept. of Highways to reconstruct the overhead bridge which carries the Northern Trans-Provincial Highway across and over the C.N.R. near Terrace, B.C., mileage 131.1 Bulkley Subd.
- 120470 April 12 – Authorizing the C.N.R. to reconstruct and improve the overhead bridge which carries a public road across and over their tracks in Township of Shipton, P.Q., mileage 72.5 Danville Subd.
- 120471 April 12 – Requiring the C.N.R. to install automatic protection at crossing of their railway and P.T.H. No. 10, in Minto, Man., mileage 30.02 Hartney Subd.

- 120472 April 13 – Authorizing the Highways Department of Manitoba to reconstruct Provincial Road No. 242 where it crosses the C.N.R. at mileage 70.46 Rivers Subd., Munic. of North Norfolk, Man.
- 120473 April 13 – Approving toll published in tariff filed by the D.A.R. under sections 3 and 8 of the M.F.R.A.
- 120474 April 13 – Approving toll published in tariff filed by the C.P.R. under section 8 of the M.F.R.A.
- 120475 April 13 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120476 April 13 – Approving revisions to tariffs filed by Canadian National Communications.
- 120477 April 13 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. at Macoun, Sask., mileage 120.53 Portal Subd.
- 120478 April 13 – Approving location of new warehouse and fence of the British American Oil Company Ltd. at St. Stephen, N.B., C.P.R.
- 120479 April 13 – Approving location of proposed flammable liquid bulk storage facilities of the Royalite Oil Company Limited at Arrowwood, Alta., C.P.R.
- 120480 April 13 – Authorizing the Consumer's Gas Company to install a steel gas main under the subway carrying the C.N.R. spur serving The British American Oil Company over Highway No. 2 (Lake-shore Road) Township of Toronto, Ont., mileage 16.2 Oakville Subd.
- 120481 April 13 – Approving proposed flammable liquid tank car transfer facilities of Shell Canada Limited at Dauphin, Man., C.N.R.
- 120482 April 13 – Authorizing the C.N.R. to remove the caretaker and the station building at Bras d'Apic, P.Q.
- 120483 April 13 – Approving tolls published in tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 120484 April 13 – Authorizing the Quebec Dept. of Roads to construct an overhead bridge to serve MacDonald College, over the C.N.R. at mileage 20.43 Cornwall Subd., and over the C.P.R. at mileage 14.96 Winchester Subd., in Ste-Anne-de-Bellevue, P.Q.
- 120485 April 13 – Authorizing the Quebec Dept. of Roads to reconstruct Range 6th Road where it crosses the C.N.R. at mileage 71.56 Chandler Subd.

- 120486 April 13 – Authorizing the Highways Dept. of Manitoba to widen Provincial Road No. 510 where it crosses the C.P.R. at mileage 75.46 Winnipeg Beach Subd.
- 120487 April 13 – Authorizing the C.P.R. to remove its tracks south of a point immediately north of 8th Ave., in Iberville, P.Q.
- 120488 April 14 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at Lyn, Ont., mileage 129.91 Gananoque Subd.
- 120489 April 14 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Hale St., London, Ont., mileage 75.35 Dundas Subd.
- 120490 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Ste. Philomene-Villeroy Road, at Villeroy, P.Q., mileage 46.35 Drummondville Subd.
- 120491 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Ranges Road 16 and 17, near Villeroy, P.Q., mileage 46.07 Drummondville Subd.
- 120492 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Vernier Road, Coteau, P.Q., mileage 37.54 Cornwall Subd.
- 120493 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and l'Avenir Road, South Durham, P.Q., mileage 10.41 St. Hyacinthe Subd.
- 120494 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Rabastaliere St. near St. Bruno, P.Q., mileage 62.33 St. Hyacinthe Subd.
- 120495 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and St. Simon Road, Ste. Madeleine, P.Q., mileage 48.37 St. Hyacinthe Subd.
- 120496 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Chambly Road in St. Hubert, P.Q., mileage 66.46 St. Hyacinthe Subd.
- 120497 April 14 – Relieving the C.P.R. from erecting fences between mileages 69.90 and 70.20 on the east side of the right of way of its Fife Lake Subd., Sask.
- 120498 April 14 – Authorizing the C.N.R. to remove the station agent at Glidden Sask., provided a resident caretaker is appointed and available for duty.

- 120499 April 14 – Approving location of proposed additional flammable liquid storage facilities of Shell Canada Limited at Oak River, Man., C.P.R.
- 120500 April 14 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway No. 20, east of Bon Conseil, P.Q., mileage 90.89 Drummondville Subd.
- 120501 April 14 – Authorizing the Highways Department of Manitoba to reconstruct Provincial Trunk Highway No. 68 where it crosses the C.N.R. near Poplarfield, Man., mileage 57.67 Inwood Subd.
- 120502 April 14 – Relieving the C.P.R. from erecting right of way fences between certain mileages on its Wood Mountain Subd., Sask.
- 120503 April 14 – Authorizing the C.N.R. to remove the caretaker at Steelman, Sask.
- 120504 April 14 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R. at Galt, Ont.
- 120505 April 14 – Requiring the C.P.R. to install automatic protection at crossing of its railway and Highway No. 31 at Macklin, Sask., mileage 62.03 Hardisty Subd. and mileage 46.28 Macklin Subd.
- 120506 April 14 – Authorizing the Quebec Dept. of Roads to widen l'Esperance Road where it crosses the C.N.R. at Ste. Apolline de Patton, P.Q., mileage 143.79 Monk Subd.
- 120507 April 15 – Amending Order No. 102815, re apportionment of cost of constructing a highway diversion north of the C.N.R. between mileages 47.29 and 49.66 Sydney Subd., N.S.
- 120508 April 15 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120509 April 15 – Approving Drawing No. 8523, showing the temporary deviation of the main track of the Grand Falls Central Railway Company's Botwood Subd. between mileages 0.00 and 0.27, Nfld.
- *120510 April 15 – Rescinding Orders Nos. 85910, 56302 and 56303 relating to the French text of former General Orders Nos. 41 and 792 concerning bill of lading "order" and "straight". (See page 346, 56 B.T.C.)
- 120511 April 18 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Paiment Road at mileage 133.1 Lachute Subd., P.Q.
- 120512 April 18 – Amending Order No. 115594, re apportionment of cost of installing automatic protection at crossing of the C.N.R. and 4th Line West Road, Twp. of Chinguacousy, Ont., mileage 25.01 Brampton Subd.

- 120513 April 18 – Relieving the C.N.R. from erecting right of way fences between certain mileages on their Mantario Subd., Alta.
- 120514 April 18 – Amending Order No. 120011, which authorized the Quebec Dept. of Roads to construct an overhead bridge to carry Highway No. 11 over the C.P.R. at mileage 0.94 Trois Rivieres Subd.
- 120515 April 18 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Chemin Est Riviere des Anglais, in Tres St. Sacrement Parish, P.Q., mileage 25.69 Valleyfield Subd.
- 120516 April 18 – Approving changes in the automatic protection at crossing of the C.P.R. and Highway No. 28 at Welsford, N.B., mileage 24.00 McAdam Subd.
- 120517 April 18 – Authorizing the Town of Kingsville, Ont., to reconstruct Queen St. where it crosses the C. & O.R. at mileage 30.10 Canada No. 1 Subd.
- 120518 April 18 – Authorizing the Quebec Dept. of Roads to reconstruct Ligne Ste-Therese Road where it crosses the C.P.R. in Parish of St. Viateur, mileage 49.52 Trois Rivieres Subd.
- 120519 April 18 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 23, in Biddulph Township, Ont., mileage 12.02 Forest Subd.
- 120520 April 18 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Notre Dame St. in Saint Cesaire, P.Q., mileage 29.88 Granby Subd.
- 120521 April 18 – Approving Traffic Agreement and Supplements between The Bell Telephone Company of Canada and the Central Community Telephone Company Limited (Erin-Hillsburgh).
- 120522 April 18 – Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and the Erin Community Telephone Company Limited.
- 120523 April 18 – Approving changes in the Signal Profile of the Quebec North Shore and Labrador Railway Company, between mileages 340 and 357, P.Q.
- 120524 April 18 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120525 April 18 – Approving clearances at the chip loader on the siding serving H.K. Lumber Company Limited at mileage 56.7 Shuswap Subd., B.C., C.P.R.

- 120526 April 18 – Authorizing the N.B. Department of Public Works to construct a subway to carry Highway No. 6 across and under the C.N.R. at mileage 1.4 Gort Subd.
- 120527 April 19 – Amending Order No. 117939, which authorized the Town of Almonte, Ont., to widen Bridge St. where it crosses the C.P.R. at mileage 23.98 Chalk River Subd.
- *120528 April 19 – Approving By-law No. 17 of Trans-Canada Pipe Lines Limited, providing for creation of a class of preferred shares. (See page 343, 56 B.T.C.)
- 120529 April 19 – Authorizing the C.P.R. to remove the caretaker and close the station building at Belwood, Ont.
- 120530 April 19 – Amending Order No. 119488, which authorized the A.C.R. to install automatic protection at crossing of its railway and Highway No. 556 in Hodgins Township, Ont., mileage 30.90 Soo Subd.
- 120531 April 19 – Authorizing the Quebec Dept. of Roads to widen Highway No. 32 where it crosses the C.N.R. in Upton, P.Q., on the industrial track which commences at mileage 28.47 St. Hyacinthe Subd.
- 120532 April 19 – Authorizing the C.N.R. to operate over the Bramalea Industrial Lead track at mileage 12.41 Halton Subd., Twp. of Chingua-cousy, Ont., and across West Drive at mileage 0.17 of the lead track.
- 120533 April 19 – Authorizing the Highways Department of Manitoba to widen Provincial Trunk Highway No. 25 where it crosses the C.P.R. at mileage 14.73 Miniota Subd.
- 120534 April 19 – Approving clearances on the C.P.R. siding serving Federated Co-operatives Limited at Canoe, B.C., mileage 56.2 Shuswap Subd.
- 120535 April 19 – Approving clearances on the C.N.R. siding serving Ferro Metal Limited in Jacques Cartier, P.Q., mileage 5.69 Sorel Subd.

Canada The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

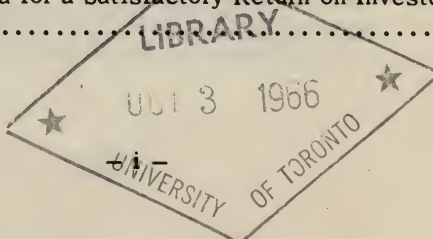
IN THE MATTER OF the review respecting the British Columbia Telephone Company set forth in the Board's Notice dated March 1, 1965.

File No. 32560.52

May 4, 1966

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The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the review respecting the British Columbia Telephone Company set forth in the Board's Notice dated March 1, 1965.

*File No. 32560.52
May 4, 1966*

Heard at Vancouver, B.C., October 25, 26, 27, 28 and 29 and November 1, 2, 3, 4, 8, 9, 10 and 12, 1965.

BEFORE:

H.H. GRIFFIN,
W.R. IRWIN,
A.S. KIRK,

*Assistant Chief Commissioner.
Commissioner.
Commissioner.*

APPEARANCES:

J.D. TAGGART, Q.C.

*for the British Columbia Telephone
Company*

C.W. BRAZIER, Q.C. }
M.R. TAYLOR }
RUSSELL K. BAKER, Q.C. }
ALEX B. MACDONALD }
PATRICK O'NEAL }
ROBERT M. STRACHAN }

*for the Attorney General of the
Province of British Columbia.
for the City of Vancouver.*

for the B.C. Federation of Labour.

*Leader of the Official Opposition of
the Province of British Columbia.
Councillor, Langley, B.C., represent-
ing the Executive of the Union of
British Columbia Municipalities.*

NOEL BOOTH

JUDGMENT

BY THE BOARD:

1. THE SCOPE AND NATURE OF THE BOARD'S REVIEW OF THE COMPANY'S ANNUAL EARNINGS AND OTHER MATTERS:

The British Columbia Telephone Company has its origins in the Vernon & Nelson Telephone Company, Limited, which obtained a charter from the Legislature

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of the Province of British Columbia in 1891. In the spring of 1904, the Vernon & Nelson Company acquired the assets of the New Westminster & Burrard Inlet Telephone Company, Limited, and the Victoria & Esquimalt Telephone Company; the name of the Vernon & Nelson Company was then changed on July 5, 1904 to the British Columbia Telephone Company, Limited.

In 1916, this last-named provincial company obtained a special Act of the Parliament of Canada, 6-7 George VI (1926), Chapter 66, which incorporated the Western Canada Telephone Company and provided that the said Federal Company might change its name to British Columbia Telephone Company, subject to the approval of the Secretary of State of Canada. Resolutions of the British Columbia Telephone Company, Limited, and of the Western Canada Telephone Company, authorizing such change in name, were approved by the Secretary of State of Canada on November 29, 1919.

By the terms of a lease, dated September 30, 1918, all the property of the provincial company was leased to the Federal Company, the value of the plant being then established at about \$7 million.* This lease, after due publication, was recommended by this Board** to the Governor-in-Council for sanction under Section 151 of the Railway Act, (now Section 153), and it was duly sanctioned by Order-in-Council P.C. 1867, dated September 6, 1919. The tolls of the British Columbia Telephone Company, therefore, became subject to the jurisdiction of the Board on that date. Effective January 26, 1923, the provincial company turned over its properties to the Federal Company, the preferred and ordinary shareholders of the provincial company receiving in exchange preferred and ordinary stock in the Federal Company.

The special Act of the Parliament of Canada, 6-7 George VI (1916), Chapter 66, which incorporated the Western Canada Telephone Company, (now the British Columbia Telephone Company), has since been amended and enlarged from time to time by the following Acts:

- 4-5 George VI (1940-1) Chapter 36
- 11 George VI (1947) Chapter 86
- 15 George VI (1951) Chapter 85
- 6 Elizabeth II (1957-8) Chapter 40
- 8-9 Elizabeth II (1960) Chapter 66

During April and May 1921, the Company made its first appearance before the Board at public hearings in Vancouver and Ottawa, in support of its application for an increase in certain of its local-exchange rates and service charges. At that time, the Company's corporate affairs were given a full and detailed public review and examination. Judgment on this application was handed down on July 6, 1921.*** As of the end of March 1922, the Company operated some

*-27 C.R.C. 259. **-Board's Order No. 28682, dated August 20, 1919. ***-27 C.R.C. 259.

71,000 telephones and had attained a level of about \$2.9 million of gross operating revenues.

During the succeeding period of 24 years, ending with the year 1949, the basic rate structure of the Company remained stable and no applications for general increases in its rates and charges came before the Board for decision. The Board, however, did hear a number of applications and complaints from individual municipalities, or organizations representing groups of telephone customers, during the years 1921, 1924, 1925, 1926 and 1937, in respect of the application of that rate structure to particular local-exchange areas that had been enlarged, divided, or otherwise rearranged by the Company. At the end of this twenty-four year period of relative rate stability, the number of Company telephones in service had increased to about 226,000, of which only 43.4% had been converted to automatic-dial service, and gross annual operating revenues had reached the level of some \$13.5 million.

The nine-year period from 1950 through 1958, by contrast with the previous period of 24 years, was one of extremely rapid and unprecedented change. The number of Company telephones in service more than doubled to a total of some 481,000, an increase approximately the same in absolute numbers as that attained in the previous 24 years. At the same time, the percentage of automatic-dial telephones in service rose to 71.4% of total telephones. In order to provide for this rapid expansion and modernization of telephone facilities, the Company's total annual average capital more than tripled, from \$45.9 million in 1949 to \$159.0 million in 1958.

During this same nine-year period, the Board held seven public hearings, totalling forty days, to deal with five applications by the Company for general increases in its rates and its level of earnings. These hearings provided a continuing opportunity for extensive public examination and review of all facets of the Company's operations relevant to the Board's statutory duty to ensure just and reasonable telephone rates and charges, free from unjust discrimination or undue preference. Judgments with respect to these five increase applications were issued in 1950, 1951, 1952, 1953, and 1958.**** At the end of the period, the Company's gross annual operating revenues had more than tripled to some \$44.9 million.

Since our last Judgment, dated December 24, 1958, the Company has undergone further rapid growth and modernization. As at the end of 1964, the number of telephones in service has grown to a total of 661,700, of which 98.3% are automatic-dial telephones, and gross annual operating revenues have attained a level of about \$87.5 million. A number of other changes have also taken place in the Company's corporate affairs during the six-year period ending with 1964. In view of all these changes, it was accordingly considered by the Board that a

****-40 J.O.R. & R. 113; 66 C.R.T.C. 7; 68 C.R.T.C. 15; 68 C.R.T.C. 261; 69 C.R.T.C. 270; 70 C.R.T.C. 56; 70 C.R.T.C. 93; 77 C.R.T.C. 303; and 48 J.O.R. & R. 555.

56 B.T.C.

further public examination of the Company was warranted in the public interest. The Board therefore issued the following notice, dated March 1, 1965:

"In the period since the Board last authorized general adjustments in telephone rates and charges in the tariffs of British Columbia Telephone Company on December 24th, 1958, the Company has regularly supplied information to the Board concerning its annual earnings and other matters.

"The periodic studies made by the Board's staff and the information supplied by the Company from time to time show that there have been certain changes in capital investment, revenues, expenses, debt charges, dividend payments and retained earnings of the Company, and it would appear to be in the public interest that the Board should hold a review, by way of public hearing, to consider the capital investment, revenues and expenses, debt charges, dividend payments and retained earnings of the Company and the permissive level of the Company's earnings and the basis on which such permissive level may be authorized for telephone rate purposes.

"The Board will, therefore, hold a hearing at Vancouver for the purpose of such review and for the purpose of making such findings and issuing such orders or taking such other action as the Board may consider proper.

"The Board does not intend at this time to enquire into the propriety of existing rates. Existing rates, or any revision thereof that may be requested in consequence of the Board's findings, will be reviewed later, if necessary.

"British Columbia Telephone Company is hereby made a party to the proceedings and the Board requires that any other interested party that intends to appear at the hearing and take part therein shall file with the Board's Secretary, not later than April 1, 1965, a written appearance stating such intention and shall forward a copy thereof to J.R. Evans, Esq., Secretary and Treasurer of the Company, at the Company's Head Office, 768 Seymour Street, Vancouver 2, B.C.

"Not later than April 15, 1965, the Company shall file with the Board and serve upon all intervening parties who have filed written appearances a statement of the reasons which it intends to submit to the Board in support of the permissive level of earnings which the Company may claim to be just and reasonable in the circumstances and the basis on which such level of earnings should be authorized.

"Within thirty days of the service of the said statement by the Company, or within such further or other delay as the Board may direct, the said intervening parties shall file an answer to the said statement of the Company, including therein any relevant submissions which would assist the Board during the course of the hearing by mailing or delivering the said answer to the Secretary of the Board and a copy thereof to J.R. Evans, Esq., Secretary and Treasurer of the Company at the above address.

56 B. T. C.

"After receipt of the said answers of the intervening parties, the Board may give directions concerning any other information which the Board may require of the Company or of the intervening parties as relevant to the investigation, and fix the date and place of hearing and the date at which the Company and the said intervening parties shall supply memoranda covering the main points of evidence then intended by them for presentation to the Board during the course of the said hearing."

Copies of the Notice were forwarded to the Attorney General of the Province of British Columbia, the Union of British Columbia Municipalities, the City of Vancouver, the City of Victoria, the Federated Legislative Council, Elder Citizens Associations of British Columbia, and the Vancouver and District Labour Council, as well as to various other representative bodies, such as Boards of Trade, ratepayers' associations and commercial associations.

Public hearing of these matters commenced at Vancouver on October 25, 1965 and was completed on November 12, 1965, after 13 days of hearings, including Argument by Counsel.

As stated earlier, the Company's tolls have been subject to the approval of the Board since 1919. The last general increase in such tolls was granted by the Board's Order No. 96660, dated December 24, 1958, following the Board's Judgment of the same date which authorized increases in such tolls on the basis of revenue requirements sufficient to meet operating expenses, taxes (including income taxes), fixed charges, dividends, share issue expense, and surplus. In the present proceedings, the Company has submitted that the Board should assess the reasonableness of the Company's current level of earnings in relation to its total invested capital, using for that purpose the range developed by its witness, Dr. J.T. Nicholson, of between 6.5% and 7.25% return on total average invested capital.

Before considering the main, substantive issues involved in this review of the Company's affairs, the substance of the evidence of all parties participating in the review is summarized below. The omission of any particular point of evidence or argument in this summary does not in any way imply that such points were not studied and weighed by the Board in arriving at its decisions. Full weight and careful consideration has been given by the Board to all the evidence placed before it, both in the form of numerous exhibits and in the oral testimony and argument which covered over 1,800 pages of transcript.

2. SUMMARY OF EVIDENCE AT THE HEARING:

(i) AS ADDUCED BY THE COMPANY:

The principal reasons submitted by the Company in support of the permissive level of earnings which it claims to be just and reasonable under present circumstances, and the basis on which it submits such level of earnings should be authorized, are summarized below under the following headings, which also

include the Company's evidence with respect to all the major changes which have occurred in its circumstances since the end of 1958:

- (a) Financial Statements (1959 through 1964).
- (b) Review of Operations, Revenues and Expenses (1959 through 1964).
- (c) Construction Expenditures (Actual for 1959 through 1964, and Estimated for 1965 through 1969).
- (d) Purchasing Policy and Special Contracts.
- (e) The Company's Pension Plan.
- (f) Depreciation and Changes in Depreciation Accruals.
- (g) Economic Review.
- (h) Financing the Growth of the Company (1959 through 1964) and Criteria for a Satisfactory Return on Invested Capital.
- (i) Investor Appraisal of the Company.
- (j) The Permissive Level of Earnings and the Bases for its Assessment.

The tables which are included in this summary were prepared by the Board's staff from Exhibits filed by the Company during the course of the hearing, from statements made in the Transcript of Evidence, and from additional material supplied to the Board at the Board's request. Each table shows the sources from which it was compiled.

(a) Financial Statements (1959 through 1964)

A simplified, comparative income statement for the six complete years since the Board authorized the present permissive level of earnings is set out in BOARD TABLE I below. BOARD TABLE I also includes the unaudited income statement for the eight months ended August 31, 1965. Total capital invested in the Company, total income, and the percentage return on total average invested capital, for the six years 1959 to 1964, is shown in BOARD TABLE II-A below. BOARD TABLE II-B, following, sets out the same information on a slightly different basis for the seven-year period 1958-1964, and is derived from material furnished to the Board at the Board's request after the conclusion of the hearing. BOARD TABLES III-A and III-B are a comparative record of the Company's Assets and Liabilities, as at December 31, 1958 to 1964.

With respect to BOARD TABLE I, it should be noted that Total Operating Revenues (Line 1) are net of uncollectible Operating Revenues, and that Other Income - Net (Line 6) is derived from such sources as interest income from investments, interest during construction, and capital gains, from which sources are deducted charitable contributions and any capital losses in order to arrive at the net figure.

BOARD TABLE I
INCOME STATEMENT OF THE BRITISH COLUMBIA TELEPHONE
COMPANY 1959-1964 (PLUS 8 MONTHS OF 1965)

<u>Line</u>	<u>CATEGORY</u>	<u>Millions of \$ (rounded to nearest \$100,000)</u>						
		<u>1959</u>	<u>1960</u>	<u>1961</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>	<u>1965 (8 months) (#)</u>
1.	Total Operating Revenues	54.9	58.8	67.4	73.3	79.2	89.4	65.4
2.	Total Operating Expenses	36.3	37.6	41.4	45.9	48.8	56.2	41.2
3.	Net Operating Revenues	18.6	21.3	26.0	27.4	30.4	33.2	24.2
4.	Total Operating Taxes	7.5	8.6	10.6	11.0	12.6	13.5	10.1
5.	Operating Income	11.1	12.6	15.4	16.4	17.8	19.7	14.1
6.	Other Income - Net (1)	0.6	0.6	0.4	0.5	0.4	0.2	0.2
7.	Total Income before Interest Charges	11.6	13.2	15.8	16.9	18.3	20.0	14.3
8.	Interest Charges (2)	5.0	5.9	7.0	7.4	7.3	8.0	--
9.	Net Income	6.7	7.2	8.8	9.5	10.9	11.9	--

Notes: (1) From sources such as: interest income from investments; interest during construction; capital gains, etc. Charitable contributions and any capital losses are deducted from these sources to arrive at net figure.

(2) Mainly interest on long-term debt, the embedded cost of which rose from 4.77% as at December 31, 1958 to 5.23% as at December 31, 1964.

(#) Eight months ended August 31, 1965, (subject to audit and year-end adjustment).

Sources: B.C. Tel. Co. Exhibit No. BC65-D-2 and Exhibit No. BC65-D-4; Annual Reports of the Company; and Transcript, page 8219. The descriptions under "CATEGORY" differ somewhat from those used by the Company.

BOARD TABLE II-A
CAPITAL, INCOME AND PERCENTAGE RETURN -
BRITISH COLUMBIA TELEPHONE COMPANY (+)

<u>YEAR</u>	<u>TOTAL AVERAGE INVESTED CAPITAL (millions of \$) (1)</u>	<u>INCOME AVAILABLE FOR FIXED CHARGES (millions of \$) (2)</u>	<u>PERCENTAGE RETURN ON TOTAL AVERAGE INVESTED CAPITAL</u>
1959	196.3	11.6	5.93%
1960	225.8	13.2	5.83%
1961	259.2	15.8	6.09%
1962	275.2	16.9	6.13%
1963	294.7	18.3	6.19%
1964	313.2	20.0	6.37%

Notes: (1) Includes Bank Loans.

(2) No deduction has been made for Other Interest.

(+) Amounts are stated in millions of \$ (rounded to nearest \$100,000). See BOARD TABLE II-B for a computation and categorization on a slightly different basis.

Source: B.C. Tel. Co. Exhibit No. BC65-J-12.

BOARD TABLE II-B
CAPITAL, INCOME AND PERCENTAGE RETURN - BRITISH COLUMBIA TELEPHONE COMPANY (*)

Amounts below are in millions of \$ (rounded to nearest \$100,000)

YEAR	AVERAGE AMOUNTS OF CAPITAL OUTSTANDING (#)				TOTAL INCOME (1)	PERCENTAGE RETURN ON TOTAL CAPITAL
	CAPITAL STOCK	PREMIUM	RETAINED EARNINGS	LONG-TERM DEBT (2)		
1958	71.5	9.7	4.3	73.5	159.0	7.6
1959	78.1	12.1	4.7	95.2	190.1	11.3
1960	89.9	13.3	5.8	111.3	220.2	12.9
1961	99.5	17.2	6.8	129.7	253.2	15.4
1962	103.4	19.3	8.6	140.0	271.4	16.7
1963	119.5	23.2	10.6	137.5	290.9	18.0
1964	123.0	23.2	13.0	151.7	310.9	19.8

Notes: (1) Total Income is defined as: Total Income before Interest Charges, less Other Interest. The amounts of Other Interest were as follows: 1958 - \$0.5 million; 1959 - \$0.3 million; 1960 - \$0.3 million; 1961 - \$0.4 million; 1962 - \$0.2 million; 1963 - \$0.2 million; and 1964 - \$0.1 million (all amounts rounded to nearest \$100,000).

(2) Excludes Bank Loans, of which the average amounts outstanding were as follows: 1958 - \$9.3 million; 1959 - \$6.1 million; 1960 - \$5.6 million; 1961 - \$6.0 million; 1962 - \$3.8 million; 1963 - \$3.8 million; and 1964 - \$2.3 million (all rounded to nearest \$100,000).

(*) Computed as the average of 12 monthly averages, using beginning and end of month figures.

(*) Computed and categorized on the same basis as BOARD TABLE II in respect of The Bell Telephone Company of Canada, as shown in Board's Judgment in re Review of The Bell Telephone Company of Canada bearing the same date as this Judgment.

Source: Furnished to the Board by the Company at the Board's request, after conclusion of the hearing.

BOARD TABLE III-A
COMPARATIVE RECORD OF ASSETS AS AT DECEMBER 31, 1958 TO 1964 -
BRITISH COLUMBIA TELEPHONE COMPANY

Line	CATEGORY	Millions of \$ (rounded to nearest \$100,000)						
		1958	1959	1960	1961	1962	1963	1964
Assets								
1.	Telephone Plant, at cost	218.0	244.0	265.1	308.4	336.0	363.0	393.4
2.	Less Accrued Depreciation	34.0	33.4	34.9	41.2	48.2	57.8	69.6
3.	Telephone Plant - Net	184.0	210.3	230.2	267.1	287.6	305.2	323.7
4.	Investment in and Advances to North-west Tel. (1)	-	-	10.3	-	-	-	-
Current Assets								
5.	Cash	2.6	0.3	0.8	1.1	0.7	0.6	0.6
6.	Marketable Securities, at cost	-	0.1	-	3.0	-	-	-
7.	Accounts receivable (2)	4.4	6.2	6.9	7.8	9.6	10.8	11.3
8.	Materials and supplies, at cost	8.4	8.2	8.1	5.0	5.9	5.2	5.1
9.	Prepayments	0.6	0.8	0.7	0.6	1.2	1.4	0.8
10.	Total Current Assets	15.9	15.6	16.5	17.6	17.4	18.1	17.8
Deferred Charges								
11.	Unamortized discount, premium and expense on long-term debt, net	3.0	3.1	3.4	3.7	3.5	3.4	3.6
12.	Other Deferred Charges	0.5	0.8	0.8	1.9	1.7	1.3	2.4
13.	Total Deferred Charges	3.5	3.9	4.3	5.6	5.2	4.7	6.0
14.	TOTAL ASSETS	203.4	229.8	261.3	290.3	310.2	328.0	347.5

Notes: (1) Wholly-owned subsidiary, net assets of which were purchased by B.C. Tel. Co. January 1, 1961.
(2) Less provision for doubtful accounts.

Source: B.C. Tel. Co. Exhibit No. BC65-D-1.

BOARD TABLE III-B
COMPARATIVE RECORD OF LIABILITIES AS AT DECEMBER 31, 1958 TO 1964 -
BRITISH COLUMBIA TELEPHONE COMPANY

Line	CATEGORY	Millions of \$ (rounded to nearest \$100,000)						
		1958	1959	1960	1961	1962	1963	1964
Shareholders' Equity								
1.	Ordinary shares outstanding at par value of \$25 each	30.0	37.5	41.1	48.0	57.5	57.5	57.5
2.	Premium on capital stock	9.7	12.4	14.7	18.3	23.2	23.2	23.2
3.	Earnings retained for use in the business	4.1	5.6	6.3	7.7	9.8	11.8	14.7
4.	Total Ordinary Shareholders' Equity	43.8	55.5	62.0	73.9	90.6	92.6	95.5
5.	Preference and preferred shares outstanding	41.5	41.5	53.5	53.5	53.5	65.5	65.5
6.	Total Shareholders' Equity (all classes of shares)	85.3	97.0	115.5	127.4	144.1	158.1	161.0
7.	Long-Term Debt (1)	90.7	105.7	120.6	140.4	137.5	137.5	157.5
Current Liabilities								
8.	Bank demand notes payable (2)	8.0	8.5	6.5	—	5.0	6.5	2.5
9.	Accounts payable	6.1	3.1	2.6	3.0	3.5	4.6	4.7
10.	Income Taxes payable	2.3	4.0	3.9	4.9	4.8	5.6	4.3
11.	Bond and note interest accrued	1.1	1.3	1.7	2.2	2.2	2.2	2.4
12.	Dividends payable	1.1	1.4	1.4	1.6	1.8	2.1	2.1
13.	Other Accrued Liabilities (3)	0.4	0.3	0.5	0.3	0.6	0.7	2.4
14.	Unearned rentals and prepayments for service	0.5	1.6	1.7	1.8	2.0	2.1	2.1
15.	Total Current Liabilities	19.5	20.2	18.3	13.8	19.9	23.7	20.4
16.	Employees' Pension Reserve (4)	0.9	—	—	—	—	—	—
17.	Income Taxes Deferred	6.9	6.9	8.7	8.7	8.7	8.7	8.7
18.	TOTAL LIABILITIES	203.4	229.8	261.3	290.3	310.2	328.0	347.5

Notes: (1) First Mortgage Bonds, subject to general terms of the Deed of Trust and Mortgage, dated March 1, 1946.
 (2) To meet interim needs for funds. Such demand notes are later redeemed via permanent financing.
 (3) Includes payments due to the Pension Trustee.
 (4) This is the reserve which existed prior to the present funded Pension Plan.

Source: B.C. Tel. Co. Exhibit No. BC65-D-1.

(b) Review of Operations, Revenues and Expenses (1959 through 1964)

Evidence with respect to the Company's operations, revenues and expenses was given by Mr. J.C. Carlile, Assistant Vice-President — Finance and covered three main topics: (1) the development and growth of operating revenues; (2) analysis and control of operating expenses; and (3) improvements in the quality and value of communications services.

Mr. Carlile stated that the Company's affirmed policy was to operate the existing plant and future additions in such a way as to meet all requests for service on demand, but within reasonable economic limits; to develop the maximum revenue potential of installed plant under existing tariffs; to minimize operating costs; to provide the best practical grades of service; and to maintain the integrity of plant investment by adequate maintenance and depreciation charges.

(1) Operating Revenues:

During the six-year period 1959 through 1964, Total Operating Revenues increased by 63.0%, or at an annual average rate of 10.3%, compared to an increase of 55.0% in Total Operating Expenses, or an annual average increase of 9.2%. Details of the Company's Operating Revenues for the period are set out in BOARD TABLE IV below. There was, however, a declining trend in Total Operating Revenues per \$1,000 of telephone plant for all years except 1964, a condition which reflected the increasingly larger amounts of capital required to meet growth in demand for basic services, as well as new services, to provide for improvements in basic services, and to meet the higher replacement costs of equipment and facilities. The Company had nevertheless been able to offset the reduction in revenues per unit of plant through effective control of Operating Expenses.

The improvement in local-service or exchange revenues, from \$35.2 million in 1959 to \$49.3 million in 1964, was achieved within the existing rate structure. There was no increase in the rates paid by customers, except in those cases where individual exchanges had been regrouped to a higher Exchange Rate Group, either as a result of growth beyond previous Rate Group limits, or as a result of the provision of a wider flat-rate calling area, (extended-area service), following prior approval by the majority of customers affected. The overall growth in toll or long-distance revenues, from \$17.3 million in 1959 to \$36.0 million in 1964, was principally due to an increase in messages from 15.9 million in 1959 to 20.2 million in 1964, higher average revenue per message, and the reduction in low-unit-revenue messages through extended-area services. Increased sales of directory advertising was the principal factor in the increase in miscellaneous revenues (net) from \$2.4 million in 1959 to \$4.2 million in 1964.

BOARD TABLE IV
OPERATING REVENUES, 1959-1964 - BRITISH COLUMBIA TELEPHONE COMPANY

YEAR	LOCAL SERVICE		LONG-DISTANCE		MISC. (NET) (3)		TOTAL REVENUES (1)		OPERATING REVENUES - \$ per \$100 OF PLANT
	\$million*	% of Total	\$million*	% of Total	\$million*	% of Total	\$million*	% increase over previous year	
1959	35.2	64.0%	17.3	31.6%	2.4	4.4%	54.9	-	\$238
1960	37.2	63.3%	19.0	32.2%	2.7	4.5%	58.8	7.2%	\$231
1961	40.8	60.6%	23.7	35.2%	2.9	4.2%	67.4	14.5% (2)	\$228
1962	43.6	59.5%	26.5	36.2%	3.2	4.3%	73.3	8.8%	\$228
1963	45.8	57.8%	29.7	37.5%	3.7	4.7%	79.2	8.1%	\$227
1964	49.3	55.1%	36.0	40.2%	4.2	4.7%	89.4	12.9%	\$236

Notes: (1) Average Annual Increase, 1964 over 1959, was 10.3%.

(2) Partly as a result of the absorption of North-west Telephone Co.

(3) Principally directory advertising revenues and rent revenues.

* - Rounded to nearest \$100,000.

Sources: B.C. Tel. Co. Exhibits BC65-G-1 and BC65-G-6.

Between December 31, 1958 and December 31, 1964, the number of Company telephones in service increased by 37.7%, from 480,707 stations to 661,708 stations, partly as a result of a thirteen-percent increase in provincial population, and partly because of a relatively greater telephone development per 100 population. The growth in number of telephones was greater in the rural or remote areas than in the urban mainland areas. The Company's Northern Division, for example, experienced a 91% increase in exchange stations, whereas the increase experienced by its Coastal Division amounted to 27%. Next to the Province of Ontario, British Columbia now enjoys the highest telephone development per 100 population in Canada, 39.65 telephones per 100 population in the area served by the Company, compared with 40.40 for Ontario and 36.06 for Canada as a whole. At the end of 1958, the Company's telephone development had been 36.58 per 100 population. Held orders for main service by the Company have now been reduced to negligible proportions, although the Company acknowledges that rapid development in some of the more remote sections of the Province will undoubtedly give rise to temporary instances of held orders.

In addition to the increase in telephone development, service upgradings and customer acceptance of new service items were also factors in the increase in local-service revenues. Residence extension telephones as a percentage of residence main stations grew from 9.28% in 1958 to 14.88% in 1964. Individual-line residence service increased from 6.1% of residence main stations in 1958 to 28.4% in 1964, whereas multi-party residence service as a percentage of residence main stations declined during the same period from 32.1% to 15.5%. New service items which found increasing customer acceptance included coloured telephones, starlite telephones, speakerphones, automatic dialers, key telephone systems, and new and improved types of private automatic branch exchanges (P.A.B.X.'s). All such service improvements required major capital expenditures for additional central office equipment and outside plant facilities.

The growth in toll or long-distance revenues was principally attributable to a higher level of business activity and higher earnings by customers, but new toll services and toll service improvements, such as flat-rate toll service (WATS), message teletypewriter service (TWX), Telpak, collect calling plans (Zenith), credit-card calling, better transmission and increased circuit capacity, had also made significant contributions. Increased sales of private-line services had also been made.

It was asserted that the Company was now subject to increased risk, in that its revenues were now more volatile. Toll or long-distance revenues now provided over 40% of total revenues and the rate of increase in toll revenues, which had far exceeded that of exchange revenues over the past six years, was expected to continue. Toll revenues were directly linked to the level of business activity and, in times of business recession, business customers could reduce their use of toll service to gain immediate reductions in operating costs. A

greater and greater proportion of exchange revenue was now derived from optional and higher grades of services which could be readily discontinued by customers. Such reductions in toll or optional services would, however, bring little or no reduction in the Company's operating costs since the associated plant investment was irrevocably committed to such services. Finally, a larger proportion of total revenues now came from competitive, non-regulated private-line services; non-regulated service revenues rose from 8.4% of total revenues in 1959 to 11.9% in 1964, (i.e. from \$4.6 million to \$10.7 million).

(2) Operating Expenses:

Operating Expenses for the period 1959 through 1964 are tabulated below in BOARD TABLE V-A under five classifications: Maintenance, Depreciation, Traffic, Commercial, and General and Administrative. BOARD TABLE V-B, following, relates Maintenance and Depreciation expenses to average telephone plant in service, and BOARD TABLE V-C relates Commercial Expense to Operating Revenues.

Total Operating Expenses increased 55.0%, from \$36.3 million in 1959 to \$56.2 million in 1964, or at an annual average rate of 9.2%. Two measures of the Company's success in controlling operating expenses were said to be: (a) a reduction in the Company's Annual Operating Ratio, from 66.1% in 1959 to 62.9% in 1964; and (b) a reduction in Total Operating Expenses per \$1,000 of plant in service, from \$170.56 in 1959 to \$152.54 in 1964. These cost reductions were achieved in the face of rising labour and material costs. Average annual earnings of Company employees rose by 43.7%, from \$3,855 in 1959 to \$5,537 in 1964. Over the same period, the average weekly wages in British Columbia manufacturing increased from \$80.09 to \$94.45 and the Wholesale Price Index increased by 6.4%, changes which are reflected in higher costs to the Company for services, repair parts and operating supplies.

Although Maintenance Expense increased by 62.8%, from \$10.0 million in 1959 to \$16.4 million in 1964, the ratio of Maintenance Expense to Total Operating Expenses changed very little during the period. Average telephone plant in service rose by 73.3%, from \$212.7 million in 1959 to \$368.6 million in 1964, but Maintenance Expense per \$1,000 of plant remained fairly constant, except for a significant decrease between 1959 and 1960, despite rising labour and material costs. The two significant factors contributing to increased labour costs for maintenance were an increase in craft wage rates of 21.8% between 1958 and 1965 and the upgrading of employee skills and wage rates due to automation, more complex equipment, and improved work methods and tools. Automation, however, had had only a limited influence in controlling labour costs; the principal controls lay in the provision of more modern equipment designed to require less maintenance, effective training programs, reappraisal of work methods, and the use of improved materials. Such controls had resulted in a reduction in man-hours

BOARD TABLE V-A
OPERATING EXPENSES, 1959-1964 - BRITISH COLUMBIA TELEPHONE COMPANY

YEAR	MAINTENANCE (1)			DEPRECIATION (2)			TRAFFIC (3)			COMMERCIAL (4)			GENL. & ADMIN. (5)			TOTAL (6)	
	\$million*	% of Total		\$million*	% of Total		\$million*	% of Total		\$million*	% of Total		\$million*	% of Total		\$million*	%
1959	10.0	27.7%		8.7	23.9%		7.7	21.3%		4.5	12.4%		5.3	14.7%		36.3	
1960	10.7	28.4%		9.7	25.7%		6.8	18.1%		4.8	12.9%		5.6	14.9%		37.6	
1961	12.4	30.0%		11.6	28.1%		6.4	15.4%		5.3	12.7%		5.7	13.8%		41.4	
1962	14.0	30.5%		13.9	30.4%		5.9	12.8%		5.6	12.1%		6.5	14.2%		45.9	
1963	14.8	30.3%		15.6	32.1%		5.2	10.7%		6.0	12.4%		7.1	14.5%		48.8	
1964	16.4	29.1%		18.5	33.0%		5.7	10.1%		6.5	11.6%		9.1	16.2%		56.2	

Notes:

- (1) Average annual increase, 1964 over 1958, was 10.3%.
- (2) Average annual increase, 1964 over 1958, was 16.4%.
- (3) Average annual decrease, 1964 over 1958, was 6.4%.
- (4) Average annual increase, 1964 over 1958, was 7.9%.
- (5) Average annual increase, 1964 over 1958, was 11.2%. Largest single item in this category is relief and pensions; if this item is excluded, the average annual increase figure becomes 4.8%.
- (6) Average annual increase, 1964 over 1958, was 9.2%.

Sources: B.C. Tel. Co. Exhibits Nos. BC65-D-2, BC65-G-18, and Transcript of Evidence. Calculations of percentages, where not shown in these sources, were made by Board's staff.

BOARD TABLE V-B
OPERATING EXPENSES, 1959-1964, RELATED TO TELEPHONE PLANT - BRITISH COLUMBIA TELEPHONE COMPANY

YEAR	AVERAGE TELEPHONE PLANT IN SERVICE (1) \$ million*	MAINTENANCE		DEPRECIATION EXPENSE \$ PER \$1000 OF PLANT
		EXPENSE \$ PER \$1000 OF PLANT	TO TOTAL MAN-HOURS (Millions)	
1959	\$212.7	\$47.24	2.3	\$40.80
1960	243.8	43.79	2.3	39.67
1961	285.4	43.56	2.4	40.76
1962	310.8	45.04	2.4	44.80
1963	337.9	43.75	2.4	46.31
1964	368.6	44.39	2.6	50.29

Notes: (1) Average telephone plant in service increased 73.3%, 1964 over 1959, whereas maintenance expense increased by 62.8% over the same period.
* -rounded to nearest \$100,000.

Sources: B.C. Tel. Co. Exhibits Nos. BC65-G-8, BC65-G-11 and Transcript of Evidence.

BOARD TABLE V-C
COMMERCIAL EXPENSE PER \$1,000 OF OPERATING REVENUES - BRITISH COLUMBIA TELEPHONE COMPANY

YEAR	OPERATING REVENUES (\$ million *)	COMMERCIAL EXPENSE PER \$1,000 OF OPERATING REVENUES
1959	\$54.9	\$81.54
1960	58.8	82.30
1961	67.4	77.94
1962	73.3	75.92
1963	79.2	76.11
1964	89.4	73.12

Source: B.C. Tel. Co. Exhibit No. BC65-G-16.

Note: * -rounded to nearest \$100,000.

of maintenance per \$1,000 of plant, from 11 man-hours annually in 1959 to 6.9 man-hours in 1964.

An important factor in both Maintenance and Depreciation Expenses was the increasing mobility of the Company's customers which resulted in the removal and re-installation of services without any corresponding growth in the system. The numbers of telephones installed to gain one additional telephone were as follows during the six-year period: 1959 - 6.08; 1960 - 8.74; 1961 - 8.00; 1962 - 6.32; 1963 - 5.59; and 1964 - 5.38. Station inward movement in 1965 was expected to be 10% greater than in 1964.

Depreciation Expense was now the largest single item of Operating Expense. It had increased from \$8.7 million in 1958 to \$18.5 million in 1964; as an expense per \$1,000 of plant, this was an increase from \$40.80 in 1959 to \$50.29 in 1964, an increase of 23.3%. Such expense, it was stated, could not be controlled or changed in the ordinary sense of those terms because the cost of plant committed to service must be systematically recovered over its life. It was only through the means of long-range system planning, proper equipment selection and evaluation, and the addition of the appropriate size of plant units, that the economic life of plant could be optimized, thus minimizing all operating expenses and capital costs. Accelerated technical change was inescapable in the telephone business and the growing weight of depreciation expense resulted in increasing business risk since it was fixed and could not be immediately reduced in the event of declining revenues.

Increased investment in exchange and toll plant has had a major impact on Traffic Expense which decreased from \$7.3 million in 1959 to \$5.7 million in 1964. However, such Expense rose between 1963 and 1964 from \$5.2 to \$5.7 million. The Company believes that this moderate upward trend will continue, because the increasing volume of long-distance messages and increased demands for operator services should more than offset in the immediate future any traffic reductions brought about by the automation of additional toll centres and exchanges. Nevertheless, the long-range possibilities of automation may well reverse present trends. The Company's program of conversion to automatic-dial telephones progressed from 71.4% of telephones at December 31, 1958 to 98.3% of telephones at December 31, 1964. Direct-distance-dialling by customers was introduced in January 1961, and by December 31, 1964, 70.5% of total telephones had access to this new service. Although increased investment has secured a decrease in Traffic Expense, the risk of doing business has been thereby increased to the extent of the fixed costs of this investment.

Commercial Expense increased by 46.2%, from \$4.5 million in 1959 to \$6.5 million in 1964. The relationship of such Expense to each \$1,000 of Operating

Revenues, however, has declined from \$81.54 in 1959 to \$73.12 in 1964, a reduction of 10.3%, which has been secured in the face of rising clerical wages. In addition, almost 75% of the increase in Commercial Expense has been incurred in activities directed towards the development of increased revenues, or as a result of increased revenues.

General and Administrative Expense increased by 70.5%, from \$5.3 million in 1959 to \$9.1 million in 1964, but as a percentage of Total Operating Expenses, it has remained relatively stable and was lower than the 1959 percentage in all years except 1960 and 1964. The largest single increase in this expense item occurred in relief and pensions charged to expense which rose by \$2.5 million, from \$0.6 million in 1959 to \$3.0 million in 1964. Extensive mechanization of standard accounting work functions, and the use of data processing equipment and techniques, has enabled the Company to reduce the ratio of General and Administrative Expenses to Total Operating Revenue, from \$81.54 to \$73.12 per \$1,000 of Total Operating Revenues, despite rising clerical wage rates.

Although the percentage increase in Total Operating Expenses (55.0%) has been kept below the percentage increase in Total Operating Revenues (63.0%), taxes (which are not usually considered as operating expenses) rose at a faster rate during the six-year period 1959-1964. Municipal and Provincial taxes increased by 98.1%, and income taxes by 77.2%, to produce an overall percentage tax increase of 79.7%. It was stated that, of the total taxes of \$13.5 million paid by the Company in respect of the year 1964, some \$4.5 million accrued to municipal or Provincial authorities in the Province of British Columbia, either directly or as a result of tax-sharing arrangements with the Federal Government.

(3) Service Improvements:

The Company's dial conversion program was now virtually complete; individual-line service could now generally be furnished on demand throughout the base-rate areas of all exchanges; and the reliability of service and quality of transmission had been improved. As at the end of 1964, 98.3% of total telephones were dial, 70.5% of them had outward access to direct-distance-dialling, and 97.0% of them had access to inward direct-distance-dialling. The percentage of individual-line residence service to total residence main service had increased from 6.1% to 28.4%. Local-service deficiency reports now averaged only one per subscriber per eleven months and out-of-service reports (as a result of storm, flood or damage to plant) had been reduced to an average of one per subscriber per two-and-one-half years. Reliability of service had been strengthened by such means as pressurized cables; additional emergency generators; stand-by facilities which automatically supplanted normal facilities in the event of failure; diversification of long-distance message routing; and the burial of outside plant, both exchange and toll. Constant improvement in the quality of transmission had also been made since 1959.

Between 1959 and 1964, 32 separate extended-area service arrangements had been put into effect, and some 148 revisions had been made to exchange base-rate-area boundaries, invariably enlarging them. Thirty-three new types of service and equipment had also been introduced to meet the changing needs of customers.

During cross-examination, Mr. Carlile explained that he used the term "volatility" to describe the characteristic of wide fluctuations in the rate of growth of revenues, fluctuations which appeared to coincide with accelerated or depressed economic development. Such wide fluctuations in growth rate had been exhibited by toll or long-distance revenues in past years. With respect to the so-called "non-regulated" services, Mr. Carlile stated that, as each such service was introduced, detailed analyses and estimates of fully-distributed costs were made before rates were set. Frequent checks were also made of the validity of the original cost estimates, in order to ensure that rates were compensatory and were not subsidized by regulated rates. He agreed that the term "non-regulated" referred to services, the charges for which were not subject to the Board's approval and were, in effect, regulated by competition.

As to the possibility of greater utilization of existing facilities, Mr. Carlile said he anticipated this would come about more particularly in the field of long-distance communication, but in order to achieve this, spur or feeder lines would have to be constructed to feed traffic into existing heavy-route systems. Such spur or feeder lines would tend to have higher unit costs in relation to the incremental cost of the larger systems and the tendency would be to balance such differing costs. In reply to a suggestion that direct-distance-dialling would not be accompanied by cost increases comparable to the increases in revenue, Mr. Carlile pointed out that generally more circuits were required to furnish an acceptable grade of service between two points than were required under an operator-handled system.

It was suggested that the reduction in the Company's Operating Ratio, from 73% in 1954 to 63% in 1964, showed that the Company's operations had been prosperous and efficient. Mr. Carlile stated that the costs of capital were not reflected in an operating ratio and that such ratio by itself proved nothing. With respect to the relationship between costs and the size of communities, he said that studies of such a relationship had so far proved inconclusive. There was, however, good evidence to believe that, at least initially, local service in the larger communities encountered increasing costs, in contrast to decreasing unit costs for toll-type services and facilities.

(c) Construction Expenditures (Actual for 1959 through 1964, and Estimated for 1965 through 1969):

Mr. H.F. Urquhart, Vice-President - Operations of the Company, gave evidence with respect to its construction program. Construction expenditures during the period 1959 through 1964 totalled some \$220 million, averaging about \$36.7

million per year for each of the six years. As a result, total telephone plant increased from about \$218 million at the end of 1958 to over \$393 million by the end of 1964, an increase of about 81%, which was reflected in an increase in investment per telephone, from \$453 at the beginning of 1959 to \$594 at the end of 1964. Two major factors contributed to this increase in investment: the provision of automatic switching equipment to accelerate the dial conversion program, and the substantial extension of plant facilities in new, developing areas of the Province where distances were long and settlement was sparse.

The \$220 million construction expenditures for the six-year period were restated by Mr. Urquhart in terms of three broad categories which he described as "standing-still", "growth", and "service-improvement" expenditures. He estimated that \$33 million had been spent for "standing-still" projects; \$143 million for "growth" or expansion of facilities; and \$44 million for "service-improvement" expenditures. "Standing-still" expenditures were the least flexible part of yearly construction expenditures. They were needed to maintain the current level of plant assets and were mainly incurred as a result of the ever-increasing movement of customers which brought no corresponding telephone gain. The removal and relocation of outside plant to accommodate highway-expansion and civic street-improvement programs were other examples of this type of expenditure. "Growth" expenditures comprised the bulk of the capital spending program and were designed to meet the growth in demand for service and upgrading of existing services. "Service-improvement" expenditures included both the provision of new types of service and the provision of improved equipment and services. Some of these improvements increased revenues, whilst others did not, but in general they permitted better and more varied services, thus tending to promote increased usage of the system and, thereby, to increase revenues. They also brought about lower operating and maintenance costs. Included in such expenditures was the cost of the Company's dial conversion program.

In the implementation of the construction program, the Company was constantly striving to control and reduce costs. One of the management tools used to this end was the productivity or cost-result plan which measured the ratio of actual, productive man-hours to allowed labour units. The objective was to reduce this ratio through the use of more labour-saving equipment and more easily constructed plant and equipment, as well as by improvements in work organization, work scheduling, and work methods. In 1960, the productive hours per allowed unit of labour averaged 1.10, but during 1963, this ratio had been reduced to 0.57. Although there had been upward changes in wages between these two years, reduction in the ratio had also meant a saving in money.

Outside plant has been modernized in the past six years. The number of poles placed each year has declined significantly since 1962, partly as a result

of chemical treatment to achieve longer pole life, partly as a result of increased sharing of poles with power utilities, and partly because of an increase in the amount of underground plant. There had also been a need in recent years to adapt and modify existing equipment to make it compatible with technological changes in communications. Examples of technological change over the past five years were: replacement of vacuum tubes by transistors; the refinement of microwave systems to enable better use of the microwave frequency spectrum; the use of plastic-covered aerial and underground cable; pressurized aerial cables; the use of mechanized vehicles and tools in outside plant construction and maintenance; and the introduction of closed-circuit television for business, industry and education authorities.

Highlights of the Company's construction program over the six-year period under review included: installation in Vancouver of the largest cordless toll switchboard in North America; construction of a microwave system between Vancouver and Kamloops; completion of dial conversion in the Coastal Division in 1960 to make it 100% automatic; completion of a major microwave system from Vancouver to the northern end of Vancouver Island; completion of the tropospheric-scatter microwave system from northern Vancouver Island to Alaska; completion of a major microwave system between Kamloops and Prince George; and completion of the first stage, between Prince George and Smithers, of a microwave system that will eventually extend to Prince Rupert.

During the five-year period, 1965 through 1969, the Company estimated it would be required to spend over \$248 million on capital construction projects, some \$45.3 million of which would be spent during 1965. "Standing-still" expenditures are expected to approach \$29 million for the five-year period, of which some \$15 million would be needed to take care of station movement. In the "growth" category of expenditures, the Company anticipated an expenditure of over \$183 million, about \$34 million of which would be spent in 1965. To accommodate forecasted demand for new and additional services, about \$120 million would be required; to deal with anticipated requests for service upgrading, some \$12 million would be needed; and to meet growth in toll message volume, an expenditure of about \$40 million would have to be made. "Service-improvement" expenditures would represent approximately \$37 million over the five-year period, about \$15 million of which would be spent on local-service dial conversions and customer direct-distance-dialling.

Development of the Company's construction program starts at the level of its four operating divisions: the Coastal Division; the Island Division; the Interior Division; and the Northern Division. Each divisional program is analysed and evaluated to determine the reasonableness of "growth" expenditures, to ensure that "service-improvement" expenditures are consistent with long-term customer requirements, and to verify that "standing-still" expenditures are

adequate enough to maintain present plant. The four construction programs are then subjected to an overall consideration and review. Once these programs are approved, the operating division manager has the authority to proceed with his program in the most efficient and specialized manner. From time to time throughout the year, overall construction programs are reviewed and additions or reductions are suggested and approved as conditions indicate.

With respect to long-range planning, Mr. Urquhart stated that, although no one could safely make predictions in the face of rapidly-changing technology and changing consumer tastes and wants, it was still possible to make plans about what must be accomplished in the next decade to keep total communications services up-to-date. The most significant development expected in the longer term was the almost universal introduction of electronic, automatic-exchange switching equipment which, by using solid-state technology, micro-miniature circuitry, and memory devices, would enable the provision of additional types of customer service that are impractical today. Since such equipment represented economies in building space, power, maintenance expense and switching time, as well as the capability of furnishing a wider variety of improved and optional services, the expense of replacing existing dial offices could be entertained. Although this new generation of switching equipment was a limited reality today, the probability of its standard use within the next ten to twenty years had a bearing on what must be done in the immediate future. Present switching equipment has considerable anticipated service life and it would be necessary to modify and adapt it to provide economically the service features of electronic equipment.

In the course of cross-examination, Mr. Urquhart said construction plans were reviewed quarterly and that the economical planning period for construction varied. Some plant could be constructed for one year's requirements, but other types of plant had to be built to meet two- three- or even ten-years' needs. It was also difficult to vary the rate at which construction progressed within any given year, because some two years' prior planning was required for most projects. Estimates of the proceeds of net plant salvage for the five-year period 1965 through 1969 amounted to about \$1.5 million annually; this was substantially below the experience of the past two years because certain types of radio equipment had now been replaced with more sophisticated equipment. Mr. Urquhart stated further that direct comparisons of plant investment per telephone were generally invalid because of the differing costs of plant. The average investment in plant per telephone for all major companies in Canada for the year 1964 was \$595; this compared with \$594 for B. C. Telephone, with \$753 for Alberta Government Telephones, with \$637 for Saskatchewan Government Telephones, with \$545 for the Manitoba Telephone System, with \$542 for Bell Telephone, with \$611 for New Brunswick Telephone Company, and with \$509 for the Maritime Telegraph &

Telephone Company. Included in the B. C. Company's investment figure was the plant investment in North-west Telephone Company, which investment had been taken into the books of the B. C. Company on January 1, 1961 at some \$17.8 million.

(d) Purchasing Policy and Special Contracts:

(1) Purchasing Policy:

Mr. G. F. MacFarlane, Director of Plant and Engineering Services for the Company, gave evidence with respect to its purchasing policy which, he said, was designed to ensure that additions to plant provided the best technical solution consistent with maximum economy. The principal considerations underlying this policy were technical compatibility and standardization. New equipment had to be technically compatible with existing equipment, as well as with equipment expected to become available in the near future, and it had to be capable of proper functioning over long periods of time. Standardization of equipment was necessary to permit transfers of equipment, to minimize inventories of spare parts, and to simplify the training of engineering, maintenance and installation work forces. Proper implementation of the Company's purchasing policy required the assessment of all available equipment and material; the development of appropriate standards; and the prediction of long-range growth trends, of changes in customer habits, and of probable technological advances.

Purchasing policy was outlined in terms of four major categories of plant and equipment and of one miscellaneous category, as follows:

ITEMS PURCHASED DURING 1964

<u>Category of plant and equipment</u>	<u>% of total purchases</u>
Outside Plant	20.6%
Exchange Switching Equipment	14.2%
Subscribers' Station Equipment	35.8%
Radio and Multiplex (Carrier) Equipment	20.3%
Miscellaneous Equipment	9.1%

Outside plant included cable, wire, poles, pole-line hardware, and splicing material, items which were in the main interchangeable, regardless of the supplier. For such items, it was therefore the Company's policy to purchase from the supplier offering the lowest price. Where prices were identical, the closest supplier was selected for faster and more dependable delivery.

Exchange switching equipment comprised central office equipment and associated, auxiliary service equipment. It was recognized early by the Company

that it had to standardize on a single manufacturer to avoid the disadvantages of purchases from a multitude of suppliers. Standardization on a single manufacturer, Automatic Electric (Canada) Limited, permitted the adoption of a bulk-ordering program under which the entire requirements for each quarter year were consolidated in one order. This, combined with forecasts of future requirements, enabled the manufacturer to effect economies through longer production runs and closer control of the inventory of component parts.

The advantages to the Company of bulk-ordering were principally reflected in substantial price reductions, compatibility of equipment, close coordination between purchasing and the manufacturer's production-control staff, and in more reliable delivery schedules. There were also additional benefits to the Company. The assurance of compatibility lowered installation costs, because extensive modifications of equipment, or the provision of adapters, were unnecessary and because training expense was reduced. Equipment could also be readily transferred from one location to another. Reliable deliveries allowed the Company to level out fluctuations in work load through the improved deployment and use of its work force throughout the Province. Finally, proposed changes in equipment design could be properly assessed and the manufacturer could be induced to make improvements or modifications suggested by the Company's experience.

With respect to prices for exchange switching equipment, it was stated that, over the past three-and-one-half years, the use of the bulk-ordering technique had resulted in a 29.5% price reduction for step-by-step equipment. Other examples of price reductions were also placed on the record. It was also stated the purchase of exchange switching equipment did not lend itself to purchase by tender. Generally, where a telephone company did use the tender system, it did so for the initial installation only. The initial installation, however, represented only a relatively small portion of the total cost of a central office and the prices quoted for initial installations could well be penetration prices, the subsequent additions to plant being probably more costly.

In testing the reasonableness of the prices it paid for step-by-step equipment, the Company compared them periodically with those paid to Automatic Electric by non-affiliated companies. Price information is obtained direct from such non-affiliates, and not from Automatic Electric. Such comparisons showed that, due to the efficiencies of bulk-ordering, the Company paid less for comparable equipment than did the non-affiliated companies. Specific examples of price comparisons were given.

At the time of the last Board hearing in 1958, the Company's purchasing was performed by Canadian Telephones and Supplies Limited. This is no longer the case and the Company now has its own purchasing department. The bulk-

purchasing program was put into effect at the beginning of 1962 when the Company began gradually to take over purchasing functions from the supply company.

Subscribers' station equipment is a category which includes telephones, P.A.B.X.'s, key systems, and other equipment which is located on the customer's premises. Such equipment is mainly purchased from the one manufacturer, Automatic Electric (Canada), Limited. The advantages of doing this were said to be reduced inventories of component parts and the technical superiority of the Automatic Electric telephone dial. There was only one other major manufacturer of such equipment in Canada, Northern Electric Company Limited, and the prices for standard telephone sets from both manufacturers were identical. For non-standard sets there were price differences between the two manufacturers. As to private automatic branch exchanges, (P.A.B.X.'s), the features available from different manufacturers differed; the Company, however, considered that the switchboards supplied by Automatic Electric were superior to other types made in Canada and, furthermore, such switchboards were lower in price than other types. With larger sizes of switchboard, the witness stated there was some tendency for prices on roughly comparable types from the two major manufacturers to converge.

Radio and multiplex (carrier) equipment comprised radio relay systems, point-to-point radio systems, radio terminal equipment, and multiplex equipment. In this category, technological advance has been so rapid in the past decade that the benefits of improved equipment have outweighed any benefit that might be derived from standardization. Initially, the Company purchased from a wide variety of manufacturers, but in recent years the Company had turned more and more to purchases from Lenkurt Electric Company of Canada Limited, one of the leaders in the field of radio and multiplex equipment. Comparisons showed that the prices paid by the Company to Lenkurt were identical to those paid by others for the same equipment. From such comparisons, it was also evident that Lenkurt sold far more equipment to other Canadian purchasers than they did to the Company.

The miscellaneous category of equipment included vehicles, office furniture, work equipment, test sets, and other miscellaneous items. In the case of vehicles, the company called for bids from the major suppliers. The same procedure was followed with respect to other items, except in those cases where there was only one supplier.

During cross-examination, Mr. MacFarlane stated that the bulk-order discount varied with different bulk-orders; that it reflected the basic economies resulting from use of the technique; and that there would be further discounts beyond the basic ones, depending on the size of bulk orders. He stated further that he felt his Company had a real bargaining position with Automatic Electric

because it was an important customer whose requirements were of considerable concern to the manufacturer. It was agreed that the average annual purchases from Automatic Electric, during the years 1959–1964, amounted to about \$12.8 million and that the average annual purchases from Lenkurt, for the period 1962–1964, approximated \$5.5 million. Total purchases during 1964 amounted to some \$25.0 million, exclusive of real-estate transactions. Purchases from Automatic Electric were estimated at 25% to 30% of that Company's total output. Although tenders were impractical for exchange equipment, the Company did indicate to the various suppliers of outside plant its anticipated volume of purchases and invited such suppliers to quote prices. As to the possibility of a lower bid for telephone sets from Great Britain, Mr. MacFarlane pointed out that, quite apart from losing the advantages of standardization and the supply and replacement parts problems, the switching equipment used dictated such factors as transmission quality and dial pulse ratio, factors which differed as between European and North American equipment.

(2) Special Contracts:

Evidence with respect to three special contracts was given by Mr. J. C. Carlile, Assistant Vice-President – Finance of the Company. These contracts were: (a) with Canadian Telephones and Supplies Limited; (b) with the Dominion Directory Company; and (c) with General Telephone Service Corporation.

The original contract with Canadian Telephones and Supplies Limited provided for the supply of the following services to the Company: (a) purchasing; (b) installation, rearrangement and removal of central office equipment; (c) repair and rehabilitation of telephone equipment; and (d) warehousing of the telephone Company's equipment and supplies in Vancouver. On January 1, 1961, the Company took over direct control of its purchasing and warehousing functions, and on March 1, 1963, most of the repair-shop functions were assumed by the Company. The revised contract of March 1, 1963 now provides for the supply of only two services: (a) the installation, rearrangement and removal of central office and large P.B.X. equipment; and (b) fabrication and repair of wood and iron products. Total payments to the contractor in 1964 amounted to about \$2.4 million, of which 78.7% was for installation, rearrangement and removal services, 12.5% was for fabrication of iron and wood products, and 8.8% was for repair-shop services.

Because of the fluctuating demand for installation labour, which had ranged from a high of 336 employees to a low of 191 during the period 1959 to 1964, the Company deemed it prudent to utilize the services of a contractor. In this way it avoided the attendant problems of recruitment, selection, training and discharge. The installation of central office equipment was highly specialized and there were only two established contracting firms in Canada, Canadian

Telephones and Supplies in the West and Northern Electric in the East. Payment for the contractor's services was made by the Company on the basis of direct installation costs and related overheads, plus a fee of 12% of such costs and overheads. Work performed by Canadian Telephones and Supplies for other companies was on the same basis, except that an additional profit margin was added. Manufactured iron and wood products, such as equipment racks, trailers and terminal boxes, were purchased from the contractor only after a comparison of quotes from other suppliers indicated that the estimated cost from the contractor was equal or lower, and actual billings from the contractor had been consistently less than his estimates. The same labour skills and equipment used in manufacture of iron and wood products were used in repair work and, because of this, the Company was able to secure repair services at lower cost than if it did the work itself or contracted it out to another firm.

The contract with Dominion Directory Company Limited provides that the contractor is to sell advertising in and compile the "Yellow Pages" section of all Company directories; to do certain proof-reading of alphabetical sections; to arrange all contracts with respect to printing, paper and other materials; to provide technical assistance and advice; and to prepare and provide all sales-promotion material as needed. Mr. Carlile stated that he viewed the arrangement as one of the many "make-or-buy" situations facing the Company and that he had serious reservations as to his Company's ability to secure through its own personnel a sales volume equivalent to that of a separate, specialized agency. Directory revenues, net of all expenses, had increased from \$0.7 million in 1959 to \$1.6 million in 1964, an increase of 116%, and represented extra profits which reduced the revenues required from telephone rates. Although British Columbia Telephone Company was the only major company in Canada employing a separate directory company, there was no established practice in this regard in North America. Most non-Bell system companies in the United States had contracts with separate directory companies and about half of the Bell System's directory advertising revenues was secured under similar contract arrangements. Since a comparison of the total directory revenue per business station for the major Canadian companies, for the twelve months ending March 31, 1965, showed that British Columbia Telephone was higher than other companies, Mr. Carlile stated he had every reason to be satisfied with the arrangements with the directory company.

Whilst the overall sales' commission to the directory company of 30% had remained unchanged during the period 1959 to 1964, its impact on the telephone Company had been effectively reduced through the assumption of added work operations by the directory company, a sharing of certain "Yellow-Pages" promotional costs, and a revised method of commission payments. These changes had resulted in savings to the telephone company of some \$29,000 in direct annual salaries, in addition to other savings in 1964 amounting to about \$46,000.

The directory company's expertise in the printing and allied fields had also produced annual savings to the telephone Company of about \$20,000.

The Service Contract with the General Telephone and Electronics Service Corporation of New York, (G. T. & E. Service Corporation), covers the provision of technical and expert advisory services in such fields as accounting, financing, engineering and public relations, and in such telephone operations as plant, traffic, marketing, sales, and personnel. The service corporation is operated on a non-profit basis and companies contracting for its services pay only a pro-rata share of its operating costs. For 1965, British Columbia Telephone Company will pay 5.22% of its actual costs of operation; this is in contrast to the former basis of $\frac{3}{4}$ of 1% of the telephone Company's gross operating revenue. Mr. Carlile stated that it would be financially impossible for his Company to attempt to recruit and maintain a staff of experts qualified to meet every requirement for expert services and advice. All other major companies in Canada had similar service contracts; the Prairie Companies, for example, had contracts with The Bell Telephone Company of Canada and had, through that Company, access to the services of the American Telephone and Telegraph Company. He considered the arrangement with the service corporation to be an equitable one and that his Company could not provide the required expert services at the cost now paid under the Service Contract.

(e) The Company's Pension Plan:

Evidence with respect to the Company's Pension Plan was given by Mr. G. A. Kennedy, the Company's Vice-President - Finance. The Plan was first established in 1932 on a "pay-as-you-go" basis, pension payments being charged direct to the accounts as they were incurred. In 1955, the Plan was amended to place it on a terminal-funding basis under which the capital costs of pensions were paid at the time of employee retirement, and a pension fund administered by a trustee was established to receive such payments. Approval under the appropriate provisions of the Income Tax Act was secured for the deduction of such payments in computing tax liability.

Because annual costs under the terminal-funding scheme could be subject to wide variations, due to variations in the numbers of employees who could be compulsorily retired or who could elect early retirement in any one year, the scheme was amended, effective January 1, 1962, to include pension costs for those employees who became eligible to retire each year. During 1964, approval of the Department of National Revenue was obtained for the extension of funding to all eligible employees whose pensions had not yet been funded. Thus, during the six years 1959 through 1964, the Company had been able to take up a substantial part of the past service costs of pensions, in addition to providing for the terminal costs of pensions for employees who actually retired during that

period. As a result, pension costs rose from \$0.4 million in 1959 to \$3.9 million in 1964.

Early in January 1965, the Actuary was requested to determine the cost of adopting a current-funding plan in place of the terminal-funding plan. In addition to current service costs, the Actuary was also requested to determine the accumulated value of pension benefits in respect of prior service of employees of record on December 31, 1964. The annual cost of current service was determined as 6½% of earnings of male employees and 5½% of earnings of female employees, the two approximating an annual current service cost of \$1.8 million. The accumulated value of prior service was stated to be \$22.1 million, the amount required to amortize this figure over 25 years being \$1.4 million, making a total approximate annual cost of some \$3.2 million.

The advantages of a current-funding plan were said to include: budgeting for pension costs on a consistent yearly basis; allocation of costs to the accounting periods during which employees' service was rendered; and an immediate improvement from the employees' viewpoint, in that the plan would be more adequately secured and in line with generally accepted practice regarding pension funding in Canada. The Company also recognized that regulations respecting solvency and funding, similar to those contained in Ontario and Quebec legislation, might be enacted in British Columbia.

Under cross-examination, Mr. Kennedy stated that the trustee of the Pension Fund was the Canada Trust Company, that a firm of consultants was employed to advise on the purchase of securities for the fund, and that the Company had a pension trust committee responsible to its board of directors. Approximately 33% of the fund was held in equity securities. The market value of the fund, as at December 31, 1964, was \$9.4 million, compared with a book value of \$8.6 million. Although the actuarial valuation rate had been selected at 4%, the net interest yield of the fund had exceeded 4.7%. The plan and its investments were examined periodically and any excess interest earnings would be taken into consideration in the Actuary's determination of the amount required to be taken up in any one year. As to experienced gains from withdrawals, mortality and retirement rates, these would be taken into account by the Actuary about every three years. The Company had not yet decided what modification of its pension plan it might make in consideration of the 1.8% it would have to contribute under the Canada Pension Plan. The Company's plan was non-contributory and there was no vesting of pension rights until an employee reached the age of 60, except where he was disabled and in receipt of a disability pension. It was estimated that about 25% of pension costs would be charged to construction. As to past service costs of ex-North-west Telephone employees taken over by the Company, it was stated that such costs would have to be borne by British Columbia Telephone Company.

(f) Depreciation and Changes in Depreciation Accruals:

Mr. S. K. Taylor, Staff Special Study Supervisor for the Company gave evidence with respect to depreciation and changes in depreciation accruals. The complete text of Mr. Taylor's evidence, together with the associated graphs, charts and tables, was filed as an eighty-seven page exhibit, (Exhibit No. BC65-H-1), and dealt with the following subjects: (a) Concepts of Depreciation; (b) History of Depreciation Studies by the Company; (c) Depreciation Study Methods; (d) Resume of Depreciation Rates of the Company 1958-1965; and (e) Comparison of the Company's Depreciation Rates with those of Other Companies. Such evidence included details of changes in depreciation accruals, during the period 1958-1965, for each separate category of plant, buildings and equipment, only one category of which was referred to by Mr. Taylor in direct oral evidence as an example, leaving the balance to be explained by questions from other Counsel or the Board, as deemed necessary.

Mr. Taylor stated that depreciating accounting had two objectives: (1) to recover capital invested in depreciable plant over its useful life; and (2) to determine the depreciation expense attributable to each year's operation. Since telephone companies, in common with other utilities, had very large investments in long-lived plant in relation to annual income, the provision for recovery of the investments was more important than for many other types of enterprise. A depreciation rate which was too low would result in higher indicated profits but would not completely recover the original investment cost, thus tending to penalize future subscribers through higher telephone rates. Conversely, too high a depreciation rate would indicate lower profits and tend to penalize present subscribers with higher rates than necessary.

The more common methods of allocating depreciation expense were described. Both the compound-interest method and the sinking-fund method were said to result in low depreciation expense in the earlier years and in high depreciation expense in later years. The declining-balance method and the sum-of-the-year's-digits method both loaded the early years of service life with the major portion of depreciation expense, and neither one could be satisfactorily applied on a group or average basis when salvage is involved. There were two straight-line methods: one based on the total-life principle, and one based on the remaining-life principle. Under the total-life principle, depreciation expense was charged in direct proportion to estimated service life, estimated net salvage taken into account. Remaining-life depreciation attempted to correct assumed discrepancies in the depreciation reserve resulting from varying estimates of average service life. Mr. Taylor concluded his description of these methods by observing that the mathematical validity of any particular method was not the sole criterion of its practicability in everyday use.

It was stated that the straight-line and interest methods were now the only ones being used to any great extent in connection with utility plant. In the communications industry, the straight-line, total-life method was used almost exclusively because of its simplicity, its conservatism as to future risk, and the lesser impact on the depreciation rate of inaccuracies in estimates. The straight-line, total-life method was also more practical than the straight-line, remaining-life method where a company was a continuing and growing enterprise; where the depreciation reserve was at a reasonable level; where the utility property consisted of large masses of more-or-less homogenous units; and where the life characteristics of such property were subject to frequent change. Since it was impractical to calculate and apply separate depreciation rates for each item of plant, the average life of all units of plant within a particular class was computed and applied to that class as a whole. Under this group method, the depreciation reserve applied to the whole group and it was therefore incorrect to consider any particular item in the group as having a specific net book value.

In general, the telephone industry in North America followed the Uniform System of Accounts for Class A and Class B Telephone Companies prescribed by the Federal Communications Commission of the United States. The British Columbia Telephone Company observed this System of its own free choice. Under the Uniform System of Accounts, telephone property was segregated into classes of plant accounts. For the purposes of depreciation studies, these plant accounts were sub-divided by the Company into groups having similar life characteristics, such groups being termed "depreciation categories".

Although depreciation expense was an accounting matter, the service lives, net salvage percentages, and the resulting depreciation rates were determined by engineering studies. The average life of any one group of plant items was a matter of estimate until all items in the group were finally retired. In effect, however, the estimate was constantly corrected as the past, experienced life, called realized life, was merged with the expected future life to determine the average life for the group. This was done through the collection and analysis of historical data by statistical techniques, and by determining the operating conditions responsible for particular realized lives.

Up to 1949, British Columbia Telephone Company had estimated a single, composite depreciation rate for all depreciable plant and had applied this to the appropriate investment. During 1949, estimates based solely on judgment were made for each class of plant and were used to determine the depreciation rates submitted to the Board at the 1950 rate hearing. Based on the investment as at December 31, 1948, these individual rates produced a composite depreciation rate of 4.24%. In its Judgment of September 21, 1950, the Board directed the Company to develop new depreciation rates based on its own actual experience and conditions, and the Company accordingly retained Cyrus G. Hill, Engineers,

of Chicago to carry out a comprehensive depreciation study. This study, based on the investment as at August 31, 1952, was completed in January 1953. It yielded a composite depreciation rate of 4.33% and it was submitted to the Board during the 1953 rate hearing. Early in 1957, the Company's Engineering Department completed its first review of Mr. Hill's depreciation study. This review was based on the investment as at December 31, 1956 and yielded a composite depreciation rate of 4.18%. A further review was made in 1958; based on the investment as at December 31, 1957, it produced a composite rate of 4.29%, the rate which was submitted to the Board at the 1958 rate hearing. Since 1958, each individual depreciation rate had been revised wherever necessary. Although it had not always been realized, the Company's goal was to review each rate at least once every three years. In this regard, the Company had received guidance and advice from the G. T. & E. Service Corporation under its Service Contract. The composite depreciation rate for 1965 was 5.30%. Changes in this rate since the beginning of 1958 were as follows:

April 30, 1958	- 4.3%
December 31, 1958	- 4.4%
December 31, 1959	- 4.2%
December 31, 1960	- 4.1%
December 31, 1961	- 4.3%
December 31, 1962	- 4.8%
December 31, 1963	- 4.9%

Mr. Taylor explained the bases of the various depreciation study methods used in preparing the individual group rates for the period 1958-1965 shown in his Resume of Depreciation Rates. He stated there were five available methods: Actuarial, Life-Span, Turnover, Simulated-Plant-Balance, and Computed-Mortality. The Actuarial Method was the most satisfactory for "mass-property" accounts; that is, for those classes of plant composed of a large number of relatively small, similar units which exhibited substantial variations in life. Such a method, however, required mortality records from which an observed life table could be computed and corrected through experience. The Life-Span Method was used for structures that were eventually retired in their entirety at one point in time, such as buildings or central-office equipment, and satisfactorily met the problem of growing structures with interim additions and retirements, the component units of which had an average life much less than that of the overall life of the structure. Under this method, an estimate is made of the maximum life-span of the structure; this estimate, together with the use of appropriate interim retirement tables, is used to determine the realized lives and future expected lives of all surviving additions to the structure. The Turnover Method is used where the plant account turnover period can be obtained from the records, but the ages of plant retired and in service are unknown. The turnover period is usually

shorter than the indicated average life of plant, where the plant account is growing in size, and adjustment had to be made before the turnover period was taken as the assumed average life. Where a fairly stable life and retirement dispersion characteristic was experienced over the whole period under review, the Simulated-Plant-Balance Method avoided the indeterminate results of the other methods, but it was a laborious method involving a great deal of trial and error to discover which mortality pattern best fitted the records of actual plant balances. The Computed-Mortality Method was used where the lack of mortality records precluded the use of the Actuarial Method; it combined aspects of both the Actuarial and Simulated-Plant-Balance Methods. The aim of the method was to simulate mortality data where it was lacking.

Depreciation rates for the various groups of plant were based on the arithmetical average of the lives of the component units. The composite depreciation rate was based on the reciprocal average of the lives of the component groups and such composite rate would, of course, change according to the changing make-up of its component groups. Salvage was generally derived either from the junking of plant or from the recovery of plant for re-use. Net salvage was the salvage realized, less cost of removal. The gross salvage component of the depreciation rate ought to be composed of two parts: that actually realized, and that expected to be realized in the future. The cost of removal ought to be developed in a similar manner. By making such separate studies of gross salvage and removal cost, proper consideration could be given to the divergent trends that might apply to the separate factors, thus avoiding the masking effects of partially offsetting influences. Where there were insufficient or inadequate retirement records to make a significant statistical analysis, reliance had to be placed on the informed judgment and experience of other companies in determining average service lives and salvage percentages.

In concluding his evidence, Mr. Taylor presented a resume or summary of the changes in depreciation rates by accounts for the period 1958 to 1965. He stated that the 1958 depreciation rates had been submitted to the Board during the 1958 rate increase hearing. He considered that these rates had been, in effect, approved by the Board, because the Board had approved the depreciation expense accruing from them. Effective January 1, 1961, there had been an unusually large number of changes in depreciation rates as a result of: (a) the acquisition of the assets of North-west Telephone Company; (b) the institution of new Work Function Codes; and (c) the adoption of Revised Station Accounting.

The acquisition of the assets of North-west Telephone changed overall group depreciation rates due to differences in weighting and service lives. Institution of the new Work Function Codes involved the re-categorization of the plant groups with consequent changes in group rates. Adoption of Revised Station Accounting changed the depreciation rates of most of the subscribers'

station equipment and connection accounts. Subscribers' station equipment is now charged to capital accounts at time of purchase, retirement entries being made only when the equipment is sold, junked, destroyed or lost. The expense involved in the re-use of such equipment was formerly charged to capital but is now charged to maintenance expense. Previously, the costs of subscriber connections were charged to two separate plant accounts, with disconnects, reconnects and removals being charged to maintenance expense. Now, all such costs, with the exception of central-office disconnects and reconnects, are charged to a single plant account, (Station Connections), the depreciation rate on which provides for net charges to depreciation reserve, the retirement of connection costs upon physical removal of stations, and 1% per annum of station-connection-plant investment to take care of unforeseen excessive outward station movement.

The summary of current depreciation rates, (as of January 1, 1965), produced an annual accrual of some \$20.5 million at the composite rate of 5.3%. These rates were compared by Mr. Taylor with the latest-known depreciation rates used by The Bell Telephone Company of Canada, Alberta Government Telephones, Saskatchewan Government Telephones, Manitoba Telephone System, and Pacific North-West Bell (State of Washington). He pointed out, however, that whilst his comparison demonstrated there was substantial agreement on most group depreciation rates, as between the major companies, it was not generally too meaningful to make such comparisons. Most companies had appreciable differences in accounting methods, past history, future plans, growth rates, and other matters. Moreover, similarity in depreciation rates did not necessarily indicate similar average service lives, because salvage rates could differ widely. Not all depreciation rates were the result of detailed studies, such as those undertaken by British Columbia Telephone Company and The Bell Telephone Company of Canada; some companies, in fact, used B. C. Telephone and Bell rates and experience as a guide to setting their own rates. Finally, any significant depreciation rate differences would be explainable in terms of differences in operating conditions and company policies.

In concluding his testimony, Mr. Taylor summarized the usage by his Company of the depreciation study methods he had previously described. As a percentage of total depreciable book value, less connections, the usage was as follows: Life-Span - 47.4%; Simulated-Plant-Balance - 18.3%; Judgment - 12.6%; Actuarial - 15.5%; and Computed-Mortality - 7.2%.

During cross-examination, Mr. Taylor agreed that it was an assumption on his part that the Board had, in effect, approved the Company's depreciation rates submitted at the 1958 hearing. So far as he knew, the Board had made no study of the rates themselves. He also agreed that detailed examination of his working papers by others might probably result in more refinement to his figures.

As to the Company's experience in comparing the actual proceeds of salvage with the estimated proceeds, he stated that the Company had had no such experience.

**Motion by Counsel for the Attorney General of
the Province of British Columbia**

At the conclusion of cross-examination, Counsel for the Attorney General of the Province of British Columbia, Mr. C. W. Brazier, made a motion that the Board should retain an outside firm of depreciation experts who would carefully examine into the matter of the Company's depreciation principles and rates and file a report with the Board, giving a copy of such report both to himself and the Company. He further stated that he envisaged that the firm so appointed by the Board would give evidence as to their findings and be subject to cross-examination by himself and the Company.

In support of his motion, Mr. Brazier said that no outside study had been made of the Company's depreciation practices and rates since 1952 or 1953; that his client had not had the time or required assistance to make a proper and careful study of the Company's depreciation rates; that one-tenth of one percentage point in the depreciation rate of the Company represented the substantial sum of about \$400,000 per annum; that a public hearing was not the place to examine individual depreciation rates, because this would take much too long; that the Board did not have the required expertise to examine into these rates; and that he questioned whether the Board, on the evidence before it, could do more than accept the Company's evidence.

In reply to the motion, Counsel for the Company, Mr. J. D. Taggart, Q. C., stated that the Company's position was neutral; it neither supported nor opposed the motion. The Company had no doubt whatsoever as to the validity of its depreciation studies and the individual and composite rates derived therefrom. Consequently, it felt its studies could stand the scrutiny of any independent expert who might be retained by the Board. Mr. Taggart pointed out, however, that since the respondents had made no examination of the Company's depreciation studies, they could have no real idea as to the necessity for an independent study; that the process of depreciation studies and the fixing of rates was a continuing one which was referred by the Company to the scrutiny of the G. T. & E. Service Corporation; and that any competent, outside study would take at least a year and would entail a very considerable expense.

Counsel for the B. C. Federation of Labour, Mr. Alex B. MacDonald, stated that he supported the motion made by Mr. Brazier.

(g) Economic Review:

Mr. Arthur Phillips, President of Phillips, Hager and North Limited, Investment Counsellors and Managers, Vancouver, gave evidence on behalf of the

Company with respect to the Canadian economy and the British Columbia economy during the period 1954 through 1964, and projected probable developments up to the year 1970. He also discussed the operations of British Columbia Telephone Company within the context of the provincial economy.

Mr. Phillips stated he had chosen the eleven-year period, 1954 through 1964, because it covered two-and-one-half business cycles. For this purpose, he adopted the definition of business cycle of the National Bureau of Economic Research of the United States. This period began with the recession year 1954 and ended with the relatively prosperous year of 1964, but it was not a suitable period to use as a base for projections. Within this period, Mr. Phillips reviewed the pattern of post-war Canadian growth in terms of the 1954-1958 and the 1958-1961 business cycles, and in terms of the current cycle which began in 1958. He also described the prospects and problems for growth in the Canadian economy which he foresaw for the period 1964 to 1970.

Turning to a consideration of the British Columbia economy, Mr. Phillips referred to its mountainous topography, its widely varying climate, and its remoteness from other Canadian population centres, factors which made internal and external transportation and communications costly problems to overcome. The economy was highly dependent on primary products, particularly wood products, and upon export markets. Forest products accounted for 47% of the total value of manufacturing shipments in 1963 and some 40% of the annual provincial commodity product was exported.

During the 1954-1958 business cycle, British Columbia had experienced an unprecedented construction boom, construction expenditures more than doubling to about \$1.6 billion. In 1957, capital expenditures had accounted for 46% of the Gross Provincial Product, compared with even the abnormally-high figure of 27% of Gross National Product for Canada as a whole. There was substantial demand during the cycle for the products of British Columbia's resource-based industries. The labour force of the Province was swollen by heavy immigration. At the end of the cycle in 1958, however, the Provincial economy contracted more sharply than the Canadian economy and there was substantial growth in unemployment.

The years 1958 to 1961 were lean ones for British Columbia. Economic recovery was insufficient to reduce significantly the high level of unemployment. World demand and prices for metals and pulp fell. There was overcapacity in the newsprint industry. These adverse changes, said Mr. Phillips, illustrated the vulnerability of the Provincial economy. The termination of the construction boom had left the industry in a difficult position; profit margins were slim and there were many bankruptcies.

Between 1961 and 1964, the pattern of long-term growth in the economy was resumed, a great stimulus being provided by the devaluation of the Canadian

dollar in 1962. Development of the less populated parts of the Province was accelerated. Strong world demand for bleached sulphate pulp and for base metals encouraged the construction of pulp mills and mining activity. There was a surge in office- and apartment-construction. During the decade ended 1961, the population of northern British Columbia had increased by 90%, compared with an overall increase for the Province of 40%. Whilst unemployment declined substantially during the period 1961-1964, it still remained above the Canadian average.

In concluding his review of the Provincial economy during the eleven-year period 1954-1964, Mr. Phillips stressed the wider swings in the business cycle in British Columbia than in Canada as a whole; the greater swings or volatility in capital expenditures within the Province; the British Columbia unemployment rate which was higher than the Canadian average; and the greater dependence of the Province on construction expenditures.

As to British Columbia's economic prospects to 1970, Mr. Phillips considered they were generally favourable and estimated that population would grow at a rate faster than that for Canada. Because the Province would likely continue to be heavily dependent on resource-based industries, and because construction expenditures would probably continue to play a large role, he foresaw a continuation of the wider cyclical swings that had been experienced in the past. In particular, he estimated that the bunching of substantial construction expenditures during the next two years would probably lead to a fall in activity in the late nineteen-sixties. British Columbia, he felt, would continue to face an unemployment problem, particularly in the populous south-west corner of the Province where construction expenditures accounted for a large part of current prosperity. Finally, he thought there was a possibility of a recession in both Canada and the United States in 1967.

Dealing with the operations of British Columbia Telephone Company within the context of the Provincial economy, Mr. Phillips noted that gross plant additions by the Company tended to parallel changes in the Gross Provincial Product but with a one to two year lag; that toll revenues, expressed in terms of a rate of change, were closely related and sensitive to the Provincial business cycle, (with the exception of 1959 and 1961); and that net income available for ordinary shareholders followed this same cycle, (1959 and 1961 excepted). The exceptions for 1959 and 1961 were said to be the result of a telephone rate increase in 1959 and of the acquisition of North-west Telephones in 1961. He also pointed to the dispersed development of new telephone exchanges in the recent past, a development that would continue in the next six years, and stated he considered this would increase the volatility of the Company's revenues because of two factors. These were: the narrower economic bases of such widely-scattered communities and their relatively higher use of toll or long-distance services.

In cross-examination, Mr. Phillips stated that his exhibits and testimony were designed to illustrate generally what he termed the volatility of the British Columbia economy. Volatility he defined as a rate of change greater than that for the economy as a whole. He agreed that a measurement of personal income during the eleven-year period 1954-1964 was another very important index for the Company. During re-direct examination, he placed on the record statistics on personal income.

**(h) Financing the Growth of the Company (1959 through 1964) and
Criteria for a Satisfactory Return on Invested Capital:**

Evidence with respect to financing during the period 1959 through 1964, with respect to current financing, and with respect to suitable criteria to determine a satisfactory rate of return on invested capital, was given by the Company's Vice-President - Finance, Mr. G. A. Kennedy.

During the six-year period, the Company had raised \$129 million of new capital by means of four issues of first-mortgage bonds, two issues of cumulative redeemable preferred shares, and three rights' issues of ordinary shares. This amount, plus internally-generated funds, had enabled it to meet capital expenditures amounting to some \$220 million. In the years immediately preceding the period under review, however, the provision of funds for expansion and modernization had not been easy, because increasing costs had severely affected earnings and in 1958 insufficient net income was earned to meet total dividend requirements. As a result, temporary bank loans had to be obtained to construct essential facilities, such loans being partially discharged by the sale of \$20 million of 5¼% First-Mortgage Bonds in November 1958.

The period of the early nineteen-sixties, (following the issuance of the Board's Judgment of December 24, 1958), was one of economic adjustment, particularly in British Columbia, and had resulted in a comparatively low level of earnings for the Company. Over the past thirteen years, an increasing amount of total income had been required to meet interest and dividends, a fact which reflected not simply growth in investment, but also the rising cost of investment funds. Between 1952 and 1958, yields to purchasers of the Company's first-mortgage bonds had risen from 4.58% to 5.40%, and the four issues of such bonds made between 1959 and 1964 had been sold at rates to yield 6%, 5.83%, 5.75% and 5.66%. A similar upward trend had been exhibited by the cost of preferred-share capital; a \$12 million issue of cumulative redeemable preferred shares in 1960 required a 6¼% dividend rate and the same amount of preferred shares issued in 1963 required a rate of 5.15%. Three issues of ordinary shares via rights offerings had been made during the period 1959 through 1964; the 1959 issue had been made at a price of \$34 to yield 5.88% and the issues of 1961 and 1962 had been sold at \$38 to yield 5.79%.

It became apparent to the Company during 1959 that, in order to secure

the large amounts of capital it would require from investors, there would have to be an improvement in investor attitudes towards its ordinary share capital. Acceptability of such capital in the market place had been ensured by the promise of improved earnings following upon the Board's approval of increased telephone rates and charges effective January 1, 1959. The prospect of improved earnings also enabled the Company to increase the ordinary share dividend in the last quarter of 1959 from an annual rate of \$2.00 to \$2.20. A further increase to an annual rate of \$2.40 was made in the second quarter of 1963 in consideration of the continuing necessity for substantial amounts of new capital and the maintenance of the Company's competitive position in the capital markets.

With respect to financing during the current year of 1965, Mr. Kennedy stated that the sale of \$20 million of 4.84% Cumulative Redeemable Preferred Shares of a par value of \$25 had been completed on April 1st, \$12 million of which had been used to redeem the outstanding issue of 6¼% Cumulative Redeemable Preferred Shares and \$8 million of which had been used for repayment of demand loans and other liabilities. The balance of 1965 financing had been provided through a recent rights' offer of additional ordinary shares in the ratio of one for eight at \$57 per share. On this basis, the yield to shareholders was 4.21%. The success of this issue, said Mr. Kennedy, was an indication of increased investor confidence in the Company's shares.

During the six-year period ended December 31, 1964, an average debt ratio of 50% had been maintained. The current year's sales of preferred and ordinary shares would, however, reduce the debt ratio to 46%, but this would give the Company some flexibility in financing and a margin for borrowing if market conditions proved unreceptive to the placement of equity capital.

Exhibit No. BC65-J-5 was filed by Mr. Kennedy, showing a comparison for the six years 1959 through 1964 of the cost rate of paid-in capital of the Company and six other Canadian telephone companies. This Exhibit indicated that the overall cost rate for the Company of 5.41% in 1959 was the third lowest rate and that its 1964 cost rate of 5.67% was the lowest rate amongst the seven companies shown.

Turning to a consideration of criteria for a satisfactory return on invested capital, Mr. Kennedy referred to the table on page 19 of the Company's Submission to the Board of April 19, 1965, (as amended at the opening of the hearing), which is reproduced below:

BOARD'S JUDGMENTS DATED

	<u>September 21, 1950</u>	<u>March 24, 1953</u>	<u>July 18, 1958</u>
Invested capital	\$46,325,972.	\$73,215,434.	\$171,797,294.
Annual addition to surplus allowed	\$ 440,201.	\$ 698,798.	\$ 1,500,000.
Percent surplus to invested capital	0.95%	0.95%	0.87%

He also filed Exhibit No. BC65-J-3, showing the annual addition to the Company's surplus as a percentage of average invested capital for the years 1959 through 1964.

Mr. Kennedy stated that the average percentage relationship between the annual addition to surplus and average invested capital, for the years 1959 through 1964, was 0.70%, compared with the 0.87% indicated by the Board's most recent Judgment. It was, he said, clear from a study of the table on page 19 of the Company's Submission that, in considering a permissive level of earnings for the Company, the Board had indicated that due regard must be given to the amount of capital invested in the enterprise and to the effect of changes in the level of invested capital. In this connection, he felt it was appropriate to cite the following extract from the Board's Judgment of July 18, 1958:

"Many criteria could be used in testing the propriety of a figure for surplus and, although comparisons with other companies or groups of companies are undoubtedly useful, consideration must be given to the respective capital structures of the companies concerned as well as to debt ratios, relative stability of earning power in the particular territories served, companies' sizes and past histories, and also their current and prospective rates of growth."

Such regulatory considerations, he argued, should continue to be applied if regulation were to have the desired effect of governing in an equitable manner the relations between the Company, its subscribers, and its shareholders, because they were just as forceful today as they were in 1958.

As an alternative to measuring earnings on the basis of the amount retained after provision for interest, dividends and other expenses, the Company had recommended that its level of earnings be measured by relating such earnings to the total capital invested in the Company. The reasons for this recommendation by the Company were as follows. Previous Judgments of the Board had expressed the permissive level of earnings in the form of a statement of the actual sums required to discharge each of the several financial requirements of the Company as they then existed, a method which had had the effect of conveying

a sense of rigidity that in all probability was never intended, but nevertheless might have imposed restrictions which would impede the Company's growth. Any literal interpretation of this method would detract from the qualities that ordinarily should attach to the Company's common stock and thus render it much less attractive than the facts warranted. At the same time, this method carried with it the possible connotation that the Company would not reap any benefit from a realignment of its outstanding securities or from the normal expectation of growth through investment of retained earnings.

In the opinion of the Company, the reasonableness of a permissive level of earnings could be established only after consideration of criteria for satisfactory earnings. In its view, the principal criteria were: (a) earnings sufficient to attract new capital at favourable rates; (b) earnings sufficient to preserve the integrity of the investment and the shareholder's confidence; and (c) earnings sufficient to permit the provision of the best possible service and to protect the interest of its employees.

Mr. Kennedy referred to the percentage relationships which had obtained between total income and total invested capital during the six years 1959 through 1964, (see BOARD TABLE II-A), and noted that the rate structure had remained unchanged throughout this period, although the return on invested capital had steadily improved and the level of all costs, including the cost of capital, had constantly increased. He emphasized that it was only during the year 1964 that earnings had entered the range contemplated by the Board's previous Judgment of July 18, 1958, and had thus begun to meet the real requirements of the financial markets. This improved earnings trend had continued into the year 1965.

Comparisons of the Company's financial performance with that of six other Canadian telephone companies for the years 1959 through 1964 were filed as exhibits. Extracts from these exhibits for the two years 1959 and 1964 are set out for reference in BOARD TABLE VI below.

It was the Company's view that it had achieved a great deal by way of improvements, both for the subscriber and for the investor, during the past six years. Such improvements, however, could only be maintained and further developed under circumstances that would enable continuance of the earnings pattern currently emerging. The Company's expansion program over the next five years to provide the services that will be needed by its customers would necessitate the expenditure of some \$250 million and would involve the financing of between \$90 and \$100 million. Consideration would also have to be given to the refinancing of \$35.5 million of First-Mortgage Bonds which will mature on March 1, 1971. The Company submitted that it must therefore be able to develop earnings which would sustain the increasing investment required.

Although the components of the Company's capital structure gave it some leeway to control the rising costs of capital, such control could be exercised

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only within limits. The continuance of rising costs, therefore, would have to be met by some allowance for increased returns. It was within this context that the Company submitted that the Board should provide some measure of flexibility in assessing the permissive level of earnings. On the basis of the Company's suggested measurements, it appeared that its earnings would be slightly ahead of a 6.5% return in 1965. Mr. Kennedy concluded his testimony by stating that, in his judgment, such earnings were at the lower end of a zone of reasonableness.

SELECTED FINANCIAL COMPARISONS OF BRITISH COLUMBIA TELEPHONE COMPANY WITH
OTHER CANADIAN TELEPHONE COMPANIES

	Return on		Accumulated		Total Dividend Re-		Times	
	Average Total		Retained Earnings		quirements as % of			
	Invested Capital		as % of Total	Invested Capital	Retained Earnings	Accumulated	Long-Term Debt Interest Earned	
	1959	1964	1959	1964	1959	1964	1959	1964
British Columbia Telephone Co.	5.9%	6.4%	2.75%	4.62%	92.9%	61.1%	2.44	2.51
Bell Telephone Co. of Canada	5.9%	6.3%	3.88%	5.14%	92.4%	67.9%	3.81	3.28
Quebec-Telephone	7.7%	8.0%	17.68%	12.36%	32.4%	24.7%	3.52	2.49
Okanagan Telephone Co.	6.4%	8.0%	6.13%	10.71%	45.6%	25.2%	2.20	2.51
Maritime Telegraph and Telephone Co. Ltd.	6.1%	6.2%	7.92%	9.55%	43.5%	38.4%	3.69	3.43
New Brunswick Telephone Co. Ltd.	6.0%	6.8%	5.12%	8.10%	63.1%	43.6%	3.54	5.65
Northern Telephone Limited	6.4%	6.9%	16.68%	8.99%	18.6%	31.0%	3.25	2.88

Sources: B. C. Tel. Co. Exhibits Nos. BC65-J-6, BC65-J-7, BC65-J-8, and BC65-J-9.

During cross-examination, Mr. Kennedy stated that, if the Company had maintained the \$2.00 dividend without any increases, the average percentage relationship between the annual addition to surplus and average invested capital, for the years 1959 through 1964, would have been 0.87%, the amount allowed by the Board in 1958, instead of 0.70%. As to the amount of share-issue expense allowed by the Board in 1958, he agreed that the Company had spent such an amount only in the year 1960 and had approached this amount in 1963, but he pointed out that share-issue expense would differ from year to year and that such expense would be very heavy in 1965. Share-issue expense to date in 1965 had amounted to about \$1.3 million, some \$600,000 of which represented the expense of issuing preferred shares in April, and some \$720,000 of which was accounted for by the redemption premium of 5% for redeeming an issue of 6¼% preferred during June, plus the 20% tax on the redemption cost. The current rights' issue of common shares was expected to involve some \$100,000 in share-issue expense. Over the seven-year period, 1958 through 1964, share-issue expense had averaged \$330,000 per year. In reply to a suggestion that the Company's experience to date would provide some justification for amortizing share-issue expense over a period of years, Mr. Kennedy said he could see no reason to change the financial policy of the Company.

Reference was made to Order-in-Council P. C. 1958-602, dated April 29, 1958, which directed the Board "that, as a principle of rate making policy, credits to tax equalization reserves shall not be regarded as necessary expenses or requirements in determining rates and charges." Mr. Kennedy stated that, in 1958 following issuance of the Order-in-Council, the Company had adopted the only alternative procedure open to it; that was, to report depreciation for income-tax purposes on the same straight-line basis as it was carried on the Company's books. This decision had been of great and continuing concern to the Company. Mr. Kennedy stated categorically that, if the Order-in-Council were rescinded, there was no doubt whatever that the Company would revert to the method of claiming capital-cost allowances employed during the years 1954 through 1957. If maximum capital-cost allowances had been taken during the years 1958 through 1964, the amount that would have been provided to the Company by way of deferred tax accruals would have amounted to some \$24 million. An estimate of such deferred tax accruals, for the period 1965 through 1969, using some very broad assumptions, indicated an amount of some \$43 million.

In the course of re-direct examination, Mr. Kennedy stated that his Exhibit No. BC65-J-5, "Cost Rate of Paid-In Capital", was significantly different from Exhibit No. BC65-F-11 of Dr. J. T. Nicholson, (see Section (j)), "The Permissive Level of Earnings and the Bases for its Assessment" below), in that it did not show the full economic cost of the attraction of capital. Exhibit No. BC65-J-5 was simply the composite of the actual costs being paid at

the present time on the various component parts of the stated capital of each of the companies shown in the exhibit. As to the question of amortizing share-issue expense over a number of years, he pointed out that shares, unlike bonds, had no definite period for redemption and share-issue expense must therefore be charged as it was incurred. In reply to a question concerning the forecast by Mr. Phillips of a possible economic recession during 1967, Mr. Kennedy said that the Company's forward planning had not given any consideration to the possibility of an economic slowdown in British Columbia.

(i) Investor Appraisal of the Company:

Evidence with respect to investor appraisal of British Columbia Telephone Company was given by Mr. W. T. Brown, President of Odium Brown Investments Limited, Vancouver, B. C. He dealt with the Company's securities in relation to those of other Canadian utilities, making a comparison of their respective yields and using the long-term-yield curve of Government of Canada issues as a common yardstick to measure relative costs. He also discussed the merits of the Company's capital structure and debt ratio; the merits and costs of financing by rights' issues of common shares; the change in investor attitudes towards the Company; and the merits of assessing the Company's earnings by reference to the return on total invested capital, rather than by using the fiscal-requirements method.

During 1958, all long-term interest rates in Canada had increased and had subsequently remained within a higher range. At the time of the hearing before the Board in December 1958, the Company had just sold an issue of \$20 million 5¼% Twenty-Five-Year, First-Mortgage Bonds to yield 5.38%. This had been the most expensive post-war issue up to that time and the average annual interest cost on funded debt had risen to 4.56%. Subsequent bond issues were: \$15 million 6% in 1959 to yield 6%; \$15 million 5¼% in 1960 to yield 5.83%; \$20 million 5¼% in 1961 to yield 5¼%; and \$20 million 55/8% in 1964 to yield 5.66%. The Company, however, had been relatively successful in the timing of its bond issues, as measured by the yield on long-term Government of Canada bonds. Although there was an element of luck in such timing, Mr. Brown suggested that luck in such matters usually went with better management.

Marketing of the Company's bond issues had been done through a national underwriter, W. C. Pitfield & Company Limited, and institutional demand for recent issues had approximated the normal one-third to forty-per-cent of each issue. Using the yield on long-term Government-of-Canada issues as a common measure, a comparison of the yield differentials of new issues of Canadian utilities clearly showed the relative success of the Company's timing of its bond issues. Although the Company's issues had a relatively higher yield differential than those of The Bell Telephone Company of Canada, (due to a higher debt ratio, a lower asset ratio, and a lower multiple of interest earned), this disadvantage had been offset by good timing of such issues.

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The Company's policy of maintaining a debt ratio of about 50% had contributed to a higher debt cost than that of The Bell Telephone Company of Canada which had a 40% debt ratio. There was, however, an advantage to the telephone subscriber in the higher debt ratio. The Company's average annual debt cost was 5.23%, compared with 4.81% for the Bell Company. If the difference of 10% in the debt ratios were adjusted in the case of Bell, to the extent of the income-tax cost of net earnings of 4.81% on that difference, this would result in an average additional cost on all Bell debt of 0.962%, thus raising the total cost of 50% of Bell's capital to 5.772%.

There was also a benefit to subscribers in the sinking-fund provision of the the Company's first-mortgage bonds, amounting to one-per-cent per annum, because such sinking-fund moneys could be used to buy additional fixed assets during periods of high interest rates, instead of redeeming the bonds and borrowing new money at higher rates. At the same time, Mr. Brown pointed out that the Company had some \$35.5 million of relatively low-cost bonds that would have to be refunded in 1971.

The Company had followed a policy of issuing preferred shares to provide about 20% of total capital financing, or about two-fifths of equity requirements. There had been three issues of such shares since 1958: \$12 million at 6¼% in 1960; \$12 million at 5.15% in 1963; and \$20 million at 4.84% in 1965. This last issue was used partly to redeem the \$12 million issue at 6¼%. The average dividend cost of the preference and preferred capital was 5.07% in 1959, 5.34% in 1960, and 5.30% in 1963. The current average annual dividend cost of the existing \$73.5 million preference and preferred shares was 5.02%. Such shares were not convertible, had no sinking-fund provisions, and were callable at any time without restriction. They had provided additional leverage for the common shares, but with a concomitant increased risk that was acceptable in a public utility. Such leverage had benefited the subscriber, in that a relatively low overall rate of earnings could provide satisfactory earnings on common equity.

The Company, in common with The Bell Telephone Company of Canada, had raised large amounts of additional common share capital by offering it to existing shareholders on a pro-rata basis by means of transferable rights. Such rights were exercised by the majority of the Company's Canadian shareholders, (including Anglo-Canadian Telephone Company), and enabled them to maintain proportionate ownership. Some shareholders, however, sold their rights, thus diluting their ownership by disposing of part of their capital and regarding the proceeds as a tax-free dividend. It was a matter of opinion as to how such rights were valued in the market, but Mr. Brown estimated that the three rights' issues of 1961, 1962 and 1965, (excluding the January 1959 issue), had an average rights' value of between 60¢ and 85¢ tax free per year. In the eyes of the investor, such value probably approximated an additional dividend of

40¢ annually. On this basis, the current market price of \$70 for the Company's common stock would probably be at the \$60 level in the absence of rights' issues. Thus, the Company's recent rights' issue of one new share for each eight held, at a price of \$57 per share, was not out of line with what the Company would have obtained via underwritings rather than a rights' issue. In fact, the discount from market price was relatively smaller than for any previous issue.

When the Company had increased the dividend on its common shares in 1959 and again in 1963, there had been a distinct change in the general attitude of investors towards the Company's shares. For many years, the dividend had remained at \$2 and many investors considered an increase improbable, if not impossible. With the dividend increases, it was assumed by investors that increased earnings, based partly on the additional equity of retained earnings, could benefit the common shareholder directly. The effect on market price was more than proportionate to the increases in dividends, because it was also assumed that further benefits to the common shareholder could be anticipated from the Company's growth.

Mr. Brown stated that there was a basic conflict of interest in the fiscal-requirements method between shareholders and subscribers, a conflict that would be resolved through the adoption of the method of assessing earnings in relation to total invested capital. Under the fiscal-requirements method, it was in the interest of the Company and its shareholders to issue new shares as cheaply as possible, because the more shares that were issued, the more the Company would be permitted to earn. From the subscriber's point of view, however, the higher the average price obtained for the Company's shares, the lower would be the total earnings requirement. If earnings were related to total invested capital, the Company's management would have an incentive to get as high a price for its shares as possible, because the fewer the number of outstanding shares, the greater would be the earnings per share. Thus, the conflict of interest between shareholders and subscribers would disappear.

Mr. Brown concluded by stating that the Company's management had demonstrated full competence in all phases of financing; that the Company was still growing and would continue to need outside capital; and that such additional capital would be available to it on competitive terms, so long as investors were assured the Company would be permitted to have reasonable earnings.

During cross-examination, Mr. Brown stated that the Company's present capital structure, (50% long-term debt, 20% preferred and preference shares, and 30% common shares), had worked satisfactorily in the past and that it was an advantageous target to aim at in the future, using some flexibility from time to time to obtain the cheapest form of available financing. He foresaw no difficulty in raising the additional capital of some \$75 million that the Company would

have to seek over the next four years, provided that the Company continued to have the same earnings on a ratio basis as it did today, but he expressed the hope that this ratio would continue to show the sort of improvement it had shown in recent years.

With respect to the fiscal-requirements method, he said he did not infer in his evidence-in-chief that the Board would allow the same earnings on a \$40 share as on a \$100 share. He agreed that, even under the method of relating earnings to total invested capital, there would continue to be a conflict between shareholders and subscribers as to what would constitute a fair return for the Company. His point was that, under such a method, the conflict would no longer be focused on the issue price of shares or on the matter of rights' issues.

As to the suggestion that a debt ratio higher than 50% would be even more beneficial to subscribers, Mr. Brown expressed the view that the Company would be on dangerous ground above the 50% level. As it approached 60% debt, it would also approach the point where the higher interest cost on all debt would more than offset the tax savings; in addition, the preferred and common shareholders would need a greater return to compensate for the greater risks involved. Finally, if a 60% debt ratio were to be adopted on a permanent basis, the Company would face the risk that the money might just not be available to it.

(i) The Permissive Level of Earnings and the Bases for its Assessment:

Dr. J. T. Nicholson, Professor of Business Administration at the University of Western Ontario, gave evidence with respect to the philosophy and measurement of a permissive level of earnings and the way in which it could be made operable in assessing a permissive level for British Columbia Telephone Company. He stated he did not believe such a level to be susceptible of an exact mathematical or mechanistic formulation, because many factors would influence a judgment of what a reasonable level might be, none of which could be measured with absolute precision. Even if precise measurement were possible, the combination of the many variables involved meant that weights had to be assigned to each of them. These weights were also judgment matters since they might vary from time to time and from circumstance to circumstance.

The financial world used most frequently the following two measures of earnings: (1) annual reported earnings, after taxes, fixed charges, and preferred dividends, that were available to common stockholders; and (2) annual reported earnings after taxes, but before fixed charges for debt and preferred dividends, related to the total invested capital of the company concerned. The first measure, however, reflected the choice of capital structure and it was therefore difficult to compare the earnings of different companies without adjustments for the differing financial risks involved in different debt components in such capital structures. The second measure minimized the influence of the capital structure

and could be said to be similar to those measures of a utility company's earnings which made use of a rate base. Because it was essential to take the risk factor into consideration, it was preferable to use earnings related to total invested capital for purposes of comparison.

Dr. Nicholson defined a permissive level of earnings as a range or zone, which would circumscribe the varying conditions within which a regulated company had to operate, because it was impossible for all factors influencing the earnings of a regulated company to remain constant, even over short periods of time. Thus, the level of earnings ought to be allowed to fluctuate within prescribed limits, if it was to perform its function of protecting the subscriber and yet being sufficiently rewarding to the investor. What made a permissive level of earnings reasonable at any particular time was its conformity to general principles that were applicable at other times and under different circumstances. These general principles were expressed in four basic criteria, as follows: (1) Stable rates producing adequate revenues; (2) Incentives for corporate efficiency; (3) Comparability of earnings with companies having similar overall risks; and (4) Ability to attract capital at reasonable cost in a competitive money market. Dr. Nicholson's evidence was principally concerned with the last two criteria which, he stated, were naturally related and complementary, because they were really two different aspects of the same problem.

Compared to the capital-attraction test, the comparable-earnings test was more difficult to apply because it imposed the almost impossible task of finding a group of unregulated companies having a similar overall risk position to that of the regulated company in question. Risk was many-faceted and, even after the different facets had been defined and to some extent measured, the balancing of offsetting risk factors was a matter for subjective judgment. Rates of return of similar companies under the same kind of jurisdiction could be compared with more precision, but this had limited usefulness. To a large extent, the rate of return demanded by an investor would be defined by the extent of risk he saw in a particular company and, in measuring that risk, Dr. Nicholson believed an investor tended to examine the growth of the company, its trend of earnings, and the resulting dividend pattern. Although he recognized the difficulties in obtaining comparability of earnings of various companies, Dr. Nicholson proposed to make comparisons of the growth, earnings and dividends of British Columbia Telephone Company, of a group of Canadian industrial companies, of a group of Canadian utility companies, and of a group of Canadian telephone companies, in order to determine a reasonable permissive level of earnings for British Columbia Telephone Company.

Three criteria were used to select the group of 46 Canadian industrial companies: (1) Inclusion in the Toronto Stock Exchange Industrial Index; (2) Availability of published data in usable form for the years under review; and

(3) Exclusion of banks and finance companies. The group of Canadian utility companies comprised five of the six that were included in the Utilities Index of the Toronto Stock Exchange; Nova Scotia Light and Power Company was substituted for Consumers Gas Company because Consumers Gas had a different method of accounting for income taxes. The five telephone companies used were selected because they were telephone companies for which information was available. Although such telephone companies were smaller than The Bell Telephone Company of Canada, they were sufficiently large to be subject to appraisal in the financial markets and they were also subject to regulation. Taken as a group, these telephone companies were similar in size to British Columbia Telephone Company, measured in terms of total common equity; in terms of total invested capital they approximated two-thirds the size of British Columbia Telephone Company. The period chosen for the comparisons, 1954 to 1964, provided a reasonably complete time series of economic activity, in that it began at the low point of productivity following the recession of 1953 which was also immediately prior to the beginning of the third post-war advance.

The results of Dr. Nicholson's comparable-earnings test are tabulated in BOARD TABLE VII below. Commenting on these results, Dr. Nicholson pointed out that British Columbia Telephone Company's growth in per-share book value of common equity equalled only that of the five Canadian telephone companies; that the relative gain in market price for the Company's common shares was the lowest, such gain being considerably less than that of the averages for the other groups of companies; that growth in common-share dividends of the Company was much less than that of the other groups; and that the Company's relative growth in earnings per common share was half that of the industrial group and significantly less than that of the utility and telephone groups.

From his comparisons, Dr. Nicholson concluded that, during the period 1954 through 1964, the percentage growth of the Company's shares did not in any way compare with the percentage growth figures for the other groups of companies. If investor interest in the Company's shares was to be maintained, the Company would have to be enabled to compete at least with the average Canadian utility company which, in a broad sense, could be said to be of comparable risk. This could only come about if the permissive level of earnings were sufficient to permit growth patterns similar to those of the average Canadian utility.

With respect to the average percentage rate of dividends on common stock, it was pointed out that there was not a great fluctuation in the rates for any group of companies, the range being from 5.0% to 6.6% approximately. Thus, the Company's common shareholders had done approximately as well as the average of any of the company groups but not significantly better. Dr. Nicholson

concluded, however, that investors in the Company would have to rely on future earnings if the Company were to be able to maintain comparability with other utility companies, including telephone companies.

As to earnings after taxes as a percentage of average common equity, which in the case of the Company had ranged from 4.600% in 1958 to 8.982% in 1964, Dr. Nicholson considered that the rate earned on average total invested

BOARD TABLE VII
RESULTS OF DR. J. T. NICHOLSON'S COMPARABLE-EARNINGS' TEST FOR
THE PERIOD 1954 THROUGH 1964

	PERCENTAGE GROWTH				Average %	
	In Per-Share Book Value of Common Equity+	In Market Price of Common Shares	In Dividends Per Share	In Earnings Per Share	1954-1964 Average % Rate of Dividends on Common	Rate Earned on Average Total Capital*
46 Canadian Industrial Companies	66.823%	98.761%	67.425%	71.702%	5.467%	8.715%
11 Canadian Utility Companies	47.497%	69.666%	53.214%	57.142%	6.060%	6.335%
5 Canadian Telephone Companies	23.757%	73.291%	37.365%	48.073%	6.115%	6.672%
British Columbia Telephone Company	23.295%	46.892%	20.000%	35.424%	5.951%	6.057%

Notes: * - Earnings are defined as: earnings after taxes which are available for interest on long-term debt, dividends on preferred stock, and earnings available for common equity. Average total capital is defined as: the sum of common equity, preferred equity and long-term debt.
+ - Defined as: the sum of paid-in common-stock capital, other paid-in capital, retained earnings, and capital surplus.
Source: B. C. Tel Co. Exhibits Nos. BC65-F-1; BC65-F-2; BC65-F-3; BC65-F-4; BC65-F-5; BC65-F-7; and transcript of evidence at pages 7769, 7772, 7773, 7774, 7776, 7780, 7781, 7782.

capital permitted a better comparison to be made between companies having different capital structures. On the average, the group of industrial companies had earned a rate on average total invested capital that was about 50% higher than that for the Company, (8.715% versus 6.057%); the rate for the Company was also less than that of the utility or telephone company groups. The eleven Canadian utility companies had earned an average rate of 6.335% on average total invested capital during the period 1954 through 1964. Because he considered the risks of the Company to be at least equal to those of the group of utility companies, or those of the group of telephone companies, Dr. Nicholson

concluded that the permissive rate of earnings for the Company on its average total capital should be a minimum of 6.335% and should tend towards the lower level of the industrial group, which would be the lower quartile of that group, or 7.150%. If such figures were applied to the average total capital employed by the Company in 1964, the permissive level of earnings in dollars would have ranged from about \$19.5 million to about \$22 million, compared to actual earnings of slightly less than \$20 million.

Turning to the capital-attraction test, Dr. Nicholson observed that the financial-requirements method followed the basic principle of regulating a natural monopoly so that service is provided at an all-inclusive cost, an explicit allowance being designed to cover the costs of securing the necessary capital. Thus, in all essentials the rule was that a public utility might charge rates designed to cover operating costs plus a reasonable return or, more simply, to produce an amount of annual revenue that would cover total costs, including the costs of capital. This complied with the requirements of credit maintenance and corporate ability to attract capital on terms favourable to the Company and its subscribers.

In applying the capital-attraction test, the most formidable problem was not just the technique of measurement, but the very meaning of the cost of that portion of total invested capital represented by common equity. Dr. Nicholson stated he would define the Company's cost of capital as a weighted average of the cost of each type of capital, the weights for each type being the ratios of their market values to the market value of all stocks or securities issued by the Company. The cost of the two classes of senior capital, long-term debt and preferred share capital, could usually be computed with a close approach to accuracy, leaving only the so-called cost of equity capital subject to differences of opinion. An additional problem related to the assumptions to be made concerning capital structure, because computed overall cost would vary with the debt ratio. With this in mind, Dr. Nicholson stated he had based his estimates not only on what the actual average capitalization of the Company had been, but also on periods of high and low leverage positions. In this way, he had produced a range of levels of permissive earnings, rather than a single figure, because the Company would never be in a static capital position, but would always be in a dynamic and changing one.

The period 1951 through 1964 was used for the capital-attraction test, because 1951 was the first year in which market information was available for the Company. In addition, it was desirable to use the longest possible period because the longer the period, the greater the probability that any temporary market conditions would be levelled out.

The cost of attracting long-term debt capital for the Company was computed by valuing each debt issue at the average market price for the year and then adding such values to find the total outstanding long-term debt at market prices.

The annual reported interest paid in each year was then divided by the total market value of the long-term debt to find the average interest rate demanded by the market. A middle, or median, value was then calculated to represent the average cost of attracting long-term debt. This median value was 4.395%, in contrast to the embedded cost of long-term debt of 5.23%.

The cost of attracting preferred-share capital was calculated by assuming that the market price of each issue was the average cost for the year. This average cost was used to determine the market value of each issue. The total annual dividend paid on preferred stocks, reflecting the after-tax cost to the Company, was then divided by the value of all outstanding preferred shares to find the cost rate for each year. The median of all years during the period was then calculated as 5.332%, compared with the historic cost of 5.30%.

Measurement of the economic cost of attracting equity capital presented a really critical problem, in that there is no express or implied commitment as to dividend rates on such capital. Since there is no promise to pay dividends, no maturity date, and no promise to repay principal, the economic cost of such capital is represented by that capitalization rate which is competitively determined in the capital markets. Such rate would be the discount rate that equated all future expected dividends, plus the future market price expected to be realized, to the present market price. Since the future is uncertain, judgment has to be made. Dr. Nicholson therefore decided that his approach would be to measure the cost of common equity by assuming that such cost was the return actually earned by investors in the Company's common stock over the period 1951 through 1964.

The method of computing the returns actually received in the past was as follows. First, discount rates were calculated for purchase- and sales-dates for all possible combinations of years from 1951 to 1964. These rates were such as would equate purchase prices of common stock in the market to the sum of dividends received, rights' values, and eventual selling price in the market. In this way, discount rates or yields were obtained for each of the 91 possibilities of purchase and sales combinations over the period. The arithmetic average percentage yield for all such possibilities was found to be 12.24%, the median percentage yield being 12.43%. The results of all these yield calculations were set out in a frequency-distribution diagram which was filed as Exhibit No. BC65-F-10.

Dr. Nicholson stated that, while almost any desired rate of return might be found in the historic data by the appropriate choice of spot-purchase and sale, the average of such rates reflected the return which had been, and presumably would be, required by investors. The strong central tendency exhibited by the realized returns showed that the preponderance of possible historic outcomes was a yield to the investor of about 12%. The middle value of all the 91 possible values was 12.430% and the arithmetic average of 12.24% was

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very close to this value. Both such figures were also in the modal, or commonest-occurring, class. He considered that the long-term average was the best possible guide, because extremely large changes in the immediate future would be required to convince an investor that average conditions over a reasonably long past period would not be continued.

In order to substantiate the foregoing calculations, Dr. Nicholson also computed the cost of common equity by means of a reasonably well-known formula which states that such cost is equal to the dividend yield plus the annual growth rate of earnings. The average yield rate on market prices, (of dividends plus rights' values), for each year from 1951 to 1964, was 6.343%. The annual growth rate of earnings per share over the same period, (using a compound-interest formula), was 5.816%. If these two figures are added, the cost of common equity becomes 12.159%, a figure which appeared to corroborate the 12.430% which was obtained under the same concept of yield but by using different arithmetic.

Dr. Nicholson therefore concluded that 12.430% was a reasonably accurate figure for the average cost of common equity capital over the past fourteen years. Although it would not be the precise figure for the future, it gave the best cost obtainable where measurements were lacking of investors' perceptions of the anticipated rate of earnings.

In the application of the computed costs for the three types of capital, (long-term debt, preferred shares, and common equity), it was necessary to take into account the capital structure of a company. Although a company had a policy as to its desired optimum capital structure, its actual debt structure from time to time would fluctuate above and below the optimum, because its securities and shares were issued in large blocks. Thus, the actual structure would at times be in a high-leverage position and, at other times, in a low-leverage position. The average leverage position was the middle point between these two positions. Dr. Nicholson defined high leverage as the position when the proportion of debt in the capital structure was half way between the average proportion of debt and the highest proportion of debt in the years 1951 to 1964. Low leverage was defined as the position when the proportion of debt in the capital structure was half way between the average proportion of debt and the lowest proportion of debt in the same period. Such definitions, he said, allowed the extreme positions to be eliminated.

The results of Dr. Nicholson's capital-attraction test, as applied to the three types of capital structure, are set out in BOARD TABLE VIII below. Under conditions of high leverage, the weighted average cost of capital was computed as 6.9727%; under conditions of average leverage, it was computed as 7.3137%; and under conditions of low leverage, it was computed as 7.7623%. Thus, Dr. Nicholson concluded that the cost of attracting *new capital* for British Columbia Telephone Company was between 6.9727% and 7.7623%.

In concluding his testimony, Dr. Nicholson pointed out that the most recent earnings of the Company, (after taxes, but before interest, dividends, and other deductions), for the year 1964, fell within the boundaries of the range of 6.335% to 7.150% determined by his comparable-earnings test. He stated, however, that there remained a degree of judgment in the application of this range because of the inherent difficulties of finding and measuring equivalent risks in the companies used for comparison purposes. Under the capital-attraction test, he had examined the historical demands of the capital market and had found that the weighted average cost of capital over the longer run had been between 6.9727% and 7.7623%. If the future could be represented by the past, it would be necessary for the Company to be permitted to earn a rate between that range in order to attract new capital.

BOARD TABLE VIII

RESULTS OF DR. J. T. NICHOLSON'S CAPITAL-ATTRACTION TEST FOR THE PERIOD 1951 THROUGH 1964

CAPITAL STRUCTURE	TYPE OF CAPITAL	WEIGHT*	AVERAGE COST 1951-1964	WEIGHTED AVERAGE COST OF CAPITAL +	
High Leverage	{ Long-term Debt	.4912	4.395%	2.1588%	
	{ Preferred Share	.2128	5.332%	1.1346%	
	{ Common Share	.2960	12.430%	3.6793%	
		1.0000		6.9727%	
Average Leverage	{ Long-term Debt	.4591	4.395%	2.0177%	
	{ Preferred Share	.2011	5.332%	1.0723%	
	{ Common Share	.3398	12.430%	4.2237%	
		1.0000		7.3137%	
Low Leverage	{ Long-term Debt	.4212	4.395%	1.8512%	
	{ Preferred Share	.1808	5.332%	0.9640%	
	{ Common Share	.3980	12.430%	4.9471%	
		1.0000		7.7623%	

Notes: * - Weighted according to proportion of total market value.
+ - That is, weighted average cost of attracting new capital.
Source: B. C. Tei Co. Exhibit No. BC65-F-11.

While the comparable-earnings approach was based on book values and the capital-attraction approach was based on market values, they were complementary to one another. New capital had to earn at least the rate determined by the weighted average cost of capital or the shareholders' equity would be diluted. Although the market value of capital at the time of acquisition was essentially equal to book value at that time, differences between market and book values would arise over time, mainly because of investor appraisal of the Company in relation to other companies and the unadjusted effects of inflation. Therefore judgment was essential to adjust the difference between the two approaches, since rates derived from market values could not be strictly applied to book values. However, because a relatively large proportion of the capital of British Columbia Telephone Company had been acquired in the recent past, and the investment of such capital had obviously been appraised by the market as wise, the difference between market and book values over the past fourteen years had been very small on the average. Dr. Nicholson therefore concluded that the Company's permissive earnings' level should fall somewhere between the mid-point rate of the comparable-earnings approach and the capital-attraction rate closest to the Company's actual planned capital structure. Thus, he would consider that the range of permissive earnings, related to total invested capital, should be between 6.5% and 7.25%. If the Company were allowed to operate within that range, it would enjoy an environment conducive to the maintenance of the greatest possible efficiency.

Dr. Nicholson re-emphasized in closing that the derivation of a permissive level of earnings was a task that required not only the use of methods of quantification but also recognition of the limits of quantified information. Whatever figures were derived, they had to be used with a liberal sprinkling of judgment.

During cross-examination, Dr. Nicholson stated that the percentage growth in the market price of the Company's common shares had been 95.592% for the period 1951-1964, compared with the 48.892% growth for the period 1954-1964 which he had used in his comparable-earnings test. In making his studies, he had had to assume that the Company's management was efficient and he emphasized that inefficient management should not be underwritten. His assumption that no radical changes would occur in the future, which he used in his capital-attraction test, did not refer to the possibility of a recession but to some such radical change as the impact of war on the economy. His theory was intended to develop guidelines on which judgment could be based. He agreed he was advocating new ground insofar as Canadian public utility regulation was concerned, but he stated that such methods had been presented in evidence before the Federal Communications Commission of the United States. As to the question of a procedure whereby telephone rates would be reduced to bring the Company back within the zone or range of permissive earnings, he said he would favour such a procedure.

Dr. Nicholson stated further that maintenance of the integrity of capital was related to the ability to attract new capital. Since both regulated and non-regu-

lated companies had to compete in the same money markets, they were comparable in that sense. They could also be compared in terms of their managements and sizes of invested capital. He agreed that he had been unable to conclude from his studies that there was any other company in Canada which had an overall risk similar to that of British Columbia Telephone Company; exact comparability was, he said, impossible and he had chosen groups of companies for that reason. He also agreed that, if he had used the 1958-1964 period, or any other period, he would likely have obtained different results.

With respect to differences in accounting practices, as between the various companies used in Dr. Nicholson's studies, it was suggested that the validity of his results was destroyed because some of the industrial companies included by him used "flow-through" accounting. Dr. Nicholson stated that six of his industrials used both of the two methods of accounting and three of them used "flow-through" accounting. He did not, however, consider that the inclusion of these companies in his group of 46 industrials destroyed the validity of his results because they would have a small impact overall. He had removed Consumers Gas from his group of 11 utilities because of its different accounting practice since it would have a large impact on the results of such a small group. As to the suggestion that four out of five telephone companies used in his studies followed the practice of deferred-tax accounting, he said that this would not make any significant difference in his results.

2. SUMMARY OF EVIDENCE AT THE HEARING:

(ii) AS ADDUCED BY THE LEADER OF THE OFFICIAL OPPOSITION OF THE PROVINCE OF BRITISH COLUMBIA:

Mr. R. M. Strachan, Leader of the Official Opposition of the Province of British Columbia, stated that his views reflected a fairly large body of opinion in the Province concerning the Company's operations. He described his objectives as: (a) the registering of his protest against the limited authority of the Board to examine and supervise the Company's service and operations; (b) the assessment of the Company's operations, rates and financing, and the difficulties faced by the Board in fully protecting the consumer; and (c) to suggest how these difficulties could be overcome and to describe some of the benefits that would accrue to the people of the Province.

Mr. Strachan stated that British Columbia Telephone Company was one of many companies controlled by the General Telephone and Electronics Corporation of New York, including the companies which supplied or installed telephone equipment for British Columbia Telephone Company. He stated further that British Columbia Telephone Company operated on what he described as "a non-competitive, cost-plus basis", an arrangement which he said invited the loading of operating costs with all that the traffic would bear.

Mr. Strachan then referred to a Report of the Director of Investigation and Research, Combines Investigation Act, which he quoted as saying that the
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Board did not, and could not, under the legislation that governed it, make the same examination into the affairs of the supplying companies as it did into the affairs of the telephone companies themselves. The conclusion of this Report was said to be that there might obviously be a large practical difference between prices which could not be proved to be unreasonable and prices which were really competitive.

In Mr. Strachan's view, the public would continue to feel that the Company's telephone rates were excessive until such time as the Board were authorized to examine all ramifications of the Company's costs. He made a number of comparisons of the Company's telephone rates with those of other companies and suggested that such high rates were also a result of the financing of a large part of the Company's expansion costs through borrowings rather than share capital. Out of this, the Company was able to generate enough capital internally to provide between 50% and 60% of the necessary capital for growth. In essence, this was a compulsory capital donation by customers which amounted to almost 20% of the average monthly telephone bill. This procedure also allowed the Company to pay off debt through earnings and thus gave shareholders a large capital gain which had been paid for by subscribers.

Mr. Strachan concluded by suggesting that it was the Board's responsibility, if it found its present terms of reference too confining, or if it found it impossible to ensure that every fact and figure was out in the open and that every possible benefit was going to the consumer, to recommend to the Government of Canada that the Company be returned to provincial jurisdiction so that the people of British Columbia could enjoy a publicly-owned system. This would permit real savings in costs as well as other benefits; would return to Canada the control of what was now a foreign-owned corporation; would permit money for expansion to be borrowed at lower interest rates; and would result in no payment of corporation taxes. It would also eliminate the need to overcharge consumers to provide private profits.

2. SUMMARY OF EVIDENCE AT THE HEARING:

(iii) AS ADDUCED BY THE BRITISH COLUMBIA FEDERATION OF LABOUR:

The British Columbia Federation of Labour filed a written submission as Exhibit No. FL-1. At the opening of the hearing, the Federation also made a motion to amend the terms of reference of the Board's Notice of March 1, 1965.

Motion to Amend the Terms of Reference of the Board's Notice of March 1, 1965

The motion to amend the terms of reference of the Board's Notice of March 1, 1965 was that the following should be added to such terms of reference:

"1. And the Board will consider and hear evidence and submissions as to the existing rates, tolls and service charges of this Company, both residential and business, and

"2. For this purpose, will consider the financial structure, expenses and income of the B. C. Telephone Company, and the expenses and operating surpluses, if any, of related Companies from which telephone supplies or services are obtained."

In support of the motion, Counsel for the Federation, Mr. Macdonald, stated that the Board was charged, under the provisions of the Railway Act, with the duty and responsibility of approving telephone tolls and rates of the Company, as they may be required to be revised from time to time; that there had not been any consideration or enquiry with respect to such tolls or rates in the seven years that had elapsed since the Board's Judgment of December 24, 1958; that, during those seven years, the Company's net profits after taxes had increased by 161%, or at an annual average increase of 27%; and that the percentage of the Company's total revenue applied to meet operating expenses had been declining with increasing automation of the Company's operations. Mr. Macdonald stated further that the Company's tolls and charges had been excessive; that this situation had been getting worse during the past seven years; and that it required corrective action by the Board without delay. The Company was owned and controlled by Anglo-Canadian Telephone Company of Montreal which, in turn was owned and controlled by General Telephone and Electronics Corporation of New York. Since British Columbia Telephone Company obtained equipment, supplies and services from affiliated companies, the operating statements of such affiliates must be investigated, because it was unrealistic to set fair rates and tolls without also considering the extent to which subscribers were contributing to the profits of such affiliates.

Counsel for the Company submitted that the motion should be refused on two grounds: (1) It would be impossible to know what to do about telephone rates until a conclusion had been reached as to the permissive level of the Company's earnings; and (2) That the previous, similar proceeding with respect to the Bell Telephone Company of Canada had followed the same pattern as set out in the Board's Notice of March 1, 1965, had not had rates in issue, and would not be decided upon until the case of British Columbia Telephone Company had been disposed of.

Counsel for the Attorney General of the Province of British Columbia stated he neither supported nor opposed the motion, and Counsel for the City of Vancouver stated he had no submissions to make on the motion.

Mr. Booth, representing the Executive of the Union of British Columbia Municipalities, stated that he did not oppose the application, but if the Board were to launch upon a rate hearing, the body he represented wished adequate time to prepare; this, he felt, would entail more than an adjournment of the proceedings of, say, three weeks to a month.

The Board reserved decision on this motion and later made its ruling thereon, on October 28, 1965 at the hearing, that it would not extend the scope of the hearing for the following reasons:

(a) No notice had been given to the public that the matter of rates would be considered; on the contrary, the public had been told that such was not the object of the enquiry;

(b) The Company prepared itself according to the Board's Notice and now says it is not in a position at this time to give evidence in support of its existing rate structure; and

(c) That the Board was not prepared to extend the hearing over the period of weeks that would be required by the public and by the Company to prepare for a rate hearing.

In making its ruling, the Board pointed out that it could always deal with applications or complaints concerning the reasonableness of the Company's rates and charges and that, upon the determination by the Board of the matter before it during the hearing, any person or persons representing a substantial interest might request the Board to hold such a rate hearing, but the Board would require complaints of substance before initiating so sweeping an enquiry. The Board also stated that its ruling did not mean that it would not consider payments made to the related companies from which telephone supplies or services were obtained, if it were necessary so to do for the purpose of determining the matters before it in accordance with its Notice of March 1, 1965.

Summary of the Federation's Evidence

The Federation stated that it had been hampered in its analysis of the Company by the fact that significant areas of activity were handled by a subsidiary instead of by the Company. It therefore urged that provision be made in any future reviews for inclusion of all firms, irrespective of ownership, which were directly engaged in any aspect of the provision of telephone services.

With respect to service, the Federation noted that it was improving at a fairly satisfactory rate, particularly in urban areas, and that the expansion of services over the past ten years had been significant. Many new features had been introduced, but it considered that telephones for people who were hard of hearing had been excessively priced and should be provided at cost or less than cost. It also desired the Company to explain what it described as certain anomalies in charges. It considered that the Company's attitude was not always up to the high standards to be expected of a public utility.

The Company's financial record over the past ten or twelve years was impressive and the management had done a very effective job of administration. The Operating Ratio had been significantly reduced below what it termed "the traditionally accepted level for public utilities" of 70%. There had been a startling decrease in the proportion of Operating Revenues utilized for wages and salaries which, considering the great increase in the Company's volume, represented a tremendous increase in productivity that should be gratifying to both management and shareholders.

The Company's impressive operating record was reflected in its present capitalization which had increased by 295% from 1954 to 1964. Over the same period, shareholders' equity had increased by 265% and represented a healthy financial picture compared with other businesses. The Company's ability to finance a substantial portion of its expansion over the past ten years out of retained earnings was further evidence of financial health. For the future, there was every reason to assume that revenues would continue to expand at an impressive rate; that further automation would take place; and that there would be continued increases in productivity.

The Federation considered that the significant degree of automation that had occurred during the past few years had immensely improved the relative costs of providing telephone service. The benefits of such automation had been passed on to the shareholders, but the share passed on to employees had been much less and the share enjoyed by telephone subscribers had been so far negligible. The benefits of automation ought to be shared fairly between producers and consumers, but this had not so far happened and residents of British Columbia still paid more for telephone service than did any other Canadians in comparable locations. Because the public had subsidized to a considerable extent the expansion and modernization of the Company's facilities, the Federation claimed it should now receive some return on its investment in the form of a reduction in telephone rates.

2. SUMMARY OF EVIDENCE AT THE HEARING:

(iv) AS ADDUCED BY THE ATTORNEY GENERAL OF THE PROVINCE OF BRITISH COLUMBIA:

The evidence given by witnesses appearing for the Attorney General of British Columbia is summarized below under the following headings:

- (a) In re Various Financial Matters.
- (b) In re the Company's Economic Review.
- (c) In re the Permissive Level of Earnings and the Bases for its Assessment.

The tables which are included in this summary were prepared by the Board's staff from Exhibits filed by the Attorney General during the course of the hearing and from statements made in the Transcript of Evidence. Each such table shows the sources from which it was compiled.

(a) In re Various Financial Matters:

Mr. R. B. Dale-Harris, F. C. A., a partner in the firm of Chartered Accountants, MacDonald Currie and Company, Toronto, gave evidence with respect to various financial matters, such as the Company's dividend record, annual additions to surplus, share-issue expense, inter-company transactions, pension costs, income tax, charitable donations, preferred dividends, and the Company's estimates for 1965.

(1) Dividends, Share-Issue Expense, and Annual Additions to Surplus:

Mr. Dale-Harris referred to the two increases in common-share dividends that had been made during the six-year period 1959-1964, (see Mr. Kennedy's evidence for the Company under section 2(i)(h) above), and observed that, if dividends had remained at the \$2.00 figure which appeared to have been contemplated by the Board's 1958 Judgment, the annual additions to surplus would have been significantly larger. He filed Exhibit No. AG-10 to show the dollar effect of the increases in dividends, the difference between dividends at the \$2.00 rate and the dividends actually paid being shown as some \$2.8 million over the six-year period.

Share-issue expense had been allowed for in the Board's 1958 Judgment at an annual amount of \$400,000 but such expense had been significantly less than that figure in most years since 1958 and this had had a marked effect on the net annual additions to surplus. Exhibit No. AG-11 indicated that the excess of allowed share-issue expense over actual share-issue expense had amounted to about \$1.4 million over the six-year period 1959 through 1964. Taking this latter figure into account, Mr. Dale-Harris stated that the actual additions to surplus over the six-year period had exceeded the permissive annual surplus of \$1.5 million by some \$1.9 million. If, in addition, the additional distributions over and above the \$2.00 common share dividend were considered, the adjusted actual additions to surplus would have produced a total excess of some \$4.7 million.

Mr. Dale-Harris stated he would expect that the dividend rate and the annual increment to surplus would be increased with the growth of the Company, but he would also expect that the Board would wish to keep such matters under review and, presumably, under its control. It would not be difficult to express the dividend as a percentage of per-share common equity, thus providing a simple means of determining what might generally be taken to be an acceptable periodic increase. The same method might well apply to annual increments to surplus. As to the question of share-issue expense, it was Mr. Dale-Harris' impression that, under regulatory procedures which were generally applied on the North-American continent, (i.e. under a rate-base rate-of-return approach), such expense was not considered to be a part of allowable costs and were treated as a "below-the-line" item. Under the fiscal-requirements method, however, there was not a clear distinction between "above-the-line" and "below-the-line" items, but generally speaking some provision ought to be made for such expense, either in terms of an allowable deduction from earnings, or as a charge to surplus, or in determining the rate of return. The difficulty was to find a figure that would be really representative of overall cost over the years. The fair way to deal with share-issue expense would be to accumulate the costs and amortize them over some reasonably long period, a period slightly longer than that of the average outstanding debt. In Mr. Dale-Harris' view, this period would be in the order of 25 to 40 years. In response to a question from the Board, he stated that some allowance to shareholders for share-issue expense had to be made at some point, either in the allowed overall return, or in some form of deduction, but the treatment given to such expense should be very carefully examined.

During cross-examination on these matters, Mr. Dale-Harris stated he was not recommending to the Board any particular method for the assessment of the permissive level of earnings, because he considered that all methods, if properly applied, came back to the same form of measurement. He did not advocate any change in the method used to date, the fiscal-requirements method, which he thought was a perfectly reasonable method. However, he thought the Board would want to look at the return on overall capital investment, in addition to the return provided on equity capital. He agreed that one could not compare the return-on-total-invested-capital method with the fiscal-requirements method without making careful adjustments.

Mr. Dale-Harris stated further that he did not think the Board could draw conclusions as to the reasonableness or otherwise of the actual annual additions to surplus solely on the basis of his two exhibits AG-10 and AG-11. There would have to be, in addition, a knowledge of what sort of return it had been intended to provide for the shareholders, and of the extent to which an increase in pay-out and an increase in the annual increment to surplus was justified.

As to the totals he had derived in such exhibits, he said he did not know whether these were excessive or not. He agreed that, if the common-share dividend had remained at \$2.00, there would have been an entirely different number of shares outstanding over the six-year period and that this would present problems in drawing a conclusion from these particular exhibits. He also agreed that, if the annual addition to surplus had remained at \$1.5 million, this would have had a profound effect on the capital structure of the Company. With respect to the return to be allowed to the Company, he thought a suitable ratio could be derived from the relationship between earnings available for common equity and average common equity outstanding, but he also thought the Board might want to divide this ratio into its two components: dividend and annual addition to surplus. In his view, this would be a satisfactory yardstick to apply from year to year, but he considered that the Board's approval ought to be sought before the dividend rate was changed. Although he knew of no other Canadian or United States' regulatory body which sat in judgment on the decision of a regulated company's board of directors with respect to dividend policies, he also knew of no body which regulated by means of the fiscal-requirements method, or referred to specific dividend requirements in its judgments. All he was suggesting in this regard was that the degree of control exercised at the time of a judgment or ruling should have some continuity between judgments.

There were two choices in dealing with the question of share-issue expense: (1) To treat it as the shareholder's responsibility, the appropriate costs being recognized in the allowed rate of return; or (2) To treat it as a deduction from annual profit after dividends, in order to arrive at the net annual increment to surplus. The Board had adopted the latter alternative in Mr. Dale-Harris' view.

(2) Payments to Associated Companies:

Reference was made to the Company's transactions with affiliated companies and Mr. Dale-Harris stated that he had seen nothing to indicate that any of the payments made to such affiliates were excessive or that the Company was paying more for goods and services than it should. On the other hand, however, he had not been able to see the financial statements of any of these affiliates and he was therefore not able to say whether they were earning profits at a rate higher than might be considered reasonable for a public utility. He would not necessarily limit such profits to what would be allowed to a public utility. His main point was that he had no objective standard by which to measure the reasonableness of payments to affiliates.

(3) Pension Costs:

Mr. Dale-Harris noted that pension costs had been irregular in their incidence, but stated he did not quarrel with the various changes that had been made in the Company's pension plan up to the end of 1964, although such changes had

had the effect of increasing pension costs. With respect to the Company's 1965 decision to fund its pension plan completely, so as to cover not only currently accruing obligations, but also the accrued unfunded obligation, he suggested that the actuary's cost estimate might be too high. The actuarial reports setting out the estimated cost assumed an interest yield of 4%, which was about 0.75% lower than the experience of the last three years, and the market value of investments held by the fund was about 10% in excess of book value. If these excess values were maintained, the fund would be built up faster. Although this would not make any difference in cost to the Company over the life of the fund, it would mean that the burden on subscribers' telephone rates would be higher than it should be in the earlier years, with a corresponding relief in later years. In addition, the actuary had based his estimate of employment terminations prior to vesting at age 60 on 75% of the actual experience of the last five years; in any examination of rates in the future, this should be carefully looked at. Finally, as the Company had made no decision as to whether it would integrate its plan with the Canada Pension Plan in 1966, it was impossible to say what effect on costs the latter plan might have.

With respect to the funding of the plan as proposed by the Company, Mr. Dale-Harris said he considered this and the inclusion of the costs of funding as an operating cost to be entirely reasonable and perfectly prudent. He thought, however, that the initial unfunded liability of some \$22 million related to obligations built up over past years. Although it did represent a proper cost to be absorbed by subscribers in their telephone rates, it appeared to him that, if there had been an excess accumulation of surplus by the Company since the 1958 hearing, it might be appropriate to use such excess to absorb a portion of the charge for the unfunded liability and to charge the balance against future operating costs. In this connection, he referred to Bulletin No. 21 of the Canadian Institute of Chartered Accountants, entitled "Accounting for Cost of Pension Plans", and in particular to paragraph 18, headed "Transitional Provision", which recommended that "any such deficiency be remedied by a single charge to earned surplus. However, as a transitional measure it would be satisfactory for such cost to be regarded as past service costs and amortized as charges for operations over future years.....provided the treatment is adequately described in a note to the financial statements of the year of the change."

During cross-examination, Mr. Dale-Harris said he was not prepared to say whether or not there had in fact been any excess accumulation of surplus in the past. He agreed, however, that the wording of the Bulletin contemplated either a *single charge* to earned surplus of the entire deficiency, or the amortization of such deficiency as charges to operations over future years "in the manner recommended in paragraph 13" of the Bulletin which read as follows:

"Although past service benefits are calculated with reference to service in prior periods, they are granted as additional remuneration for continuing service and the costs therefore relate not to the past, but to the current and future periods. In contemplation of these present and future services, it is considered appropriate to spread these costs as charges to operations over a reasonable period of years, which may or may not coincide with the period over which funding payments are made."

He also agreed that the period of 25 years, over which the Company will amortize the deficiency, was a reasonable one.

(4) Charitable Donations:

Mr. Dale-Harris noted that the account for charitable donations had increased from \$122,497 in 1959 to \$313,078 in 1964. The sharpest increase in such costs had occurred in 1964 and was principally caused by a contribution of \$200,000 to the three universities capital fund, a contribution which appeared to be part of a total donation of \$850,000 to be spread over five years. In Mr. Dale-Harris' view, where the allowed return was related to a percentage of capital, there was a question as to whether the expense of charitable donations should be treated as a deduction in arriving at the profit earned, or whether it should be covered in the allowance to shareholders to be met out of their allowed profits. If it were to be included in expenses before consideration was given to the return to shareholders, it followed, at least in theory, that the charitable donations were being made by subscribers and not shareholders. So far as Mr. Dale-Harris knew, the general practice of regulatory bodies on the North-American continent was to treat charitable contributions as something which should be paid out of shareholders' profits. There was a qualification to this statement, in that he believed the Public Utilities Commission of British Columbia now allowed as an expense charitable contributions which had an educational purpose, but the Commission did disallow general charitable contributions.

In the course of cross-examination, Mr. Dale-Harris stated that he knew of only two provincial authorities which had ruled on charitable donations: Ontario and British Columbia. He had already described the British Columbia ruling and it was his understanding that the Ontario Commission did not allow charitable contributions. Counsel for the Company stated that his instructions were that the regulatory bodies in Nova Scotia and New Brunswick did allow charitable donations and Mr. Dale-Harris replied that this might well be the case.

(5) Income Tax and Capital Cost Allowances:

Mr. Dale-Harris pointed out that the expense of income tax was by far the largest single item of expense with the sole exception of depreciation. He recalled that, up to 1957, the Company had followed the so-called deferred-tax method of accounting for income taxes, under which it computed its taxes on

the basis of recorded depreciation, but reduced the tax payable by claiming maximum capital cost allowances. The difference between tax payable and tax applicable was carried in a deferred-income-tax account. This practice was changed in 1958 as a result of the Privy Council decision expressed in Order-in-Council P.C. 1958-602 which ordered as follows:

"As a principle of rate-making policy, credits to tax equalization reserves shall not be regarded as necessary expenses or requirements in determining rates and charges."

If there had been no such Order-in-Council and the Company had continued to follow the practice it abandoned in 1958, it would have accumulated over the seven-year period 1958-1964 additional deferred taxes amounting to some \$24.4 million. This would have relieved the Company of the necessity of raising outside capital of an equivalent amount and its cost of capital, interest and dividends would have been reduced accordingly. In addition, it was quite possible that the Company might have been able to raise what outside capital it did require on more advantageous terms because of the added strength provided by the unsecured and interest-free capital of deferred taxes.

From the point of view of the accountant, it was sensible and proper for a utility company to collect in its rates amounts to cover taxes which were not actually paid, provided it was ensured that not all of the benefits accruing from the accumulating free credit went to the shareholders. In the case of the Company, which had been regulated according to the fiscal-requirements method, the provision of a tax credit resulted in a benefit going directly to the subscribers. It was also entirely proper for subscribers to contribute in their rates to the taxes which related to the profits being earned. While a regulatory body had the right to determine whether taxes should be allowed on a deferred-tax accounting basis or on a "flow-through" basis, the appropriate tax provision, from the accountant's standpoint, was the amount of tax relating to the income reported to shareholders, subject only to minor adjustments for permanent disallowances or concessions, because this was the only method which would achieve a proper matching of costs against revenues. Income taxes, particularly in the case of utilities, had to be considered as a cost of business operations and must be subject to the same principles of matching with revenues as are any other costs.

Mr. Dale-Harris stated he subscribed to the views of the Canadian Institute of Chartered Accountants on this matter, as set out in a proposed accounting bulletin, circulated in August 1965 and published in that month's issue of the Canadian Chartered Accountant. Such bulletin was filed as Exhibit No. AG-14.

As to the question whether deferred taxes would ever become payable to the Government so long as the Company continues to expand and its capital

cost allowances continued to exceed recorded depreciation, Mr. Dale-Harris pointed out that, if assets were looked at individually or in groups by years, rather than as one total unit, it was clear that tax postponements of earlier years matured in time and were merely replaced by tax postponement associated with the additions to assets of subsequent years. In effect, one had a sort of revolving balance, but the idea of constantly moving balances permeated the whole field of accrual accounting and so long as any business expanded, such balances would continue to increase. However, because the balance never disappeared and continued to grow, no accountant would suggest it should be ignored. Moreover, capital cost allowances could fluctuate suddenly and irregularly as a result of the bunching of capital expenditures and it was not logical to treat the resulting fluctuations in taxes payable as a reduction in tax cost to be ascribed to any particular year.

Mr. Dale-Harris stated he considered that the Cabinet should be asked to consider the withdrawal of Order-in-Council P. C. 1958-602, because accounting opinion on this subject had crystallized in the last seven years and now subscribed fairly firmly to the view that corporate income-tax accounting required a full accrual of income-tax costs, regardless of the amount of tax actually payable. In this particular case, consideration of the effect that would have arisen had the Company been allowed to continue deferred-tax accounting must lead to the conclusion that the only losers as a result of the Order-in-Council had been the telephone subscribers. In coming to such conclusion, Mr. Dale-Harris said he was, of course, assuming that the same method of regulation applied by the Board would continue, because the method of regulatory control obviously affected where the benefit of deferred taxes went.

As to the dollar effects of a withdrawal of the Order-in-Council, Mr. Dale-Harris referred to Mr. Kennedy's testimony on this point, (see section 2(i)(h) above). Failing a cancellation of the Order-in-Council and the acceptance by the Board of deferred-tax accounting, Mr. Dale-Harris was of the view that, although he would argue strongly against a policy of "flow-through" accounting as opposed to deferred-tax accounting, once a regulatory authority had decided that deferred income taxes should be borne by future subscribers of the years in which the tax payments would actually fall due, it was wrong to permit a utility to circumvent such a ruling by voluntarily increasing its tax bill to the amount of its tax provision, rather than by reducing its tax provision to the amount of tax required to be paid. He conceded, however, that there was an added element of risk for any utility which was regulated on a "flow-through" basis and he thought it would be appropriate to allow a somewhat higher rate of return under this basis, but he was unable to say what the differential in rate of return should be. If he had to make a judgment, he thought the differential

might amount to about half of 1% on equity. With respect to the suggestion that a change to "flow-through" accounting might raise financing problems, he stated that such problems had not arisen to the best of his knowledge in those utilities which followed this practice.

During cross-examination, Counsel for the Company pointed out that, following the issuance of Order-in-Council P. C. 1958-602, the Board had heard a second application by The Bell Telephone Company of Canada for increased rates, based in part upon that Company's decision to pay income taxes on the basis of recorded depreciation, rather than on the basis of maximum capital cost allowances. The Board's decision on that application, (Judgment dated October 10, 1958), which was to the effect that there were no grounds to interfere with the Company's decision as to payment of income taxes, was appealed to the Governor-in-Council both by the Municipalities and the Government of British Columbia as intervenor. This appeal had been unsuccessful, (Order-in-Council P. C. 1958-1625), and the Press Release issued on the occasion of the dismissal of the appeal had stated, inter alia, that "Under the Income Tax law, the Company is free to follow either of the two methods permitted. It is true that the Board.....has an overriding responsibility to protect the telephone users but the facts of this particular case are such that we believe the Board has reached the right decision..... In reaching this decision the Government has taken full account of its Order in Council 602 of April 29th last, and the reasoning behind it."

Following this, Counsel asked Mr. Dale-Harris if his suggestion that the matter of income taxes be now reviewed after six years and action taken by the Board to impose "flow-through" accounting, if Order-in-Council P. C. 1958-602 were not rescinded, was predicated upon the Board being free to do so. Mr. Dale-Harris agreed that his suggestion was so predicated.

(6) The Write-Up of Assets in 1927:

Mr. Dale-Harris stated he had noted that, included in the preferred dividends, there were dividends on 40,000 shares at \$100 each which had been issued in 1927 against an appraisal write-up of \$4 million. On questioning the Company concerning this, the following answer was received:

"During the 1950 proceedings before the Board, evidence was given that during 1926 and 1927 the Chief Engineer of the Company prepared an inventory of the physical property of the Company. The inventory indicated a valuation of \$18,911,687.60. This inventory and valuation was checked by J. G. Wray and Company, an independent consultant. The consultant's report indicated a valuation of \$18,915,765.91. The valuation of the Chief Engineer resulted in an appraisal increment to the plant account of \$4,047,565.22. This sum together with a charge to surplus account of

\$452,434.78 was used to satisfy the cost of a special capital bonus of \$4.5 million, 6 per cent cumulative preferred shares which were issued pro rata amongst the holders of the ordinary shares of the Company at that time in recognition of the write-up in plant values."

Mr. Dale-Harris' comments on this matter were as follows. As far as could be ascertained from the Company's answer, the \$4 million issue had resulted in an annual dividend cost of \$240,000 for capital which was never actually subscribed or introduced into the Company and which, at the time of issue, was not matched by assets used in providing service. He conceded that it was possible that this \$4 million was represented by physical assets which had cost that amount, and that it was also possible that the \$4 million had been depreciated over the years and that the write-up had been fully amortized. If that were the case, depreciation charges had been greater than they should have been to that extent, but if the \$4 million had not been amortized, he thought that one was left with a dividend charge of \$240,000 annually that was not justified as being recoverable in telephone rates.

(7) The Company's Estimates for 1965:

Reference was made to the Company's interim statement to the end of August 1965. Mr. Dale-Harris introduced as Exhibit No. AG-12 an estimate of the Company's net income for 1965 which he had made by projecting the actual eight-months' earnings to August 1965. He estimated net income at \$13.6 million, income available for ordinary shares at \$9.8 million, and the estimated addition to surplus (before allowance for any share-issue expense) at \$4.1 million. He concluded that the trend of increasing earnings appeared to be continuing in 1965.

In the course of cross-examination, Mr. Dale-Harris agreed that his estimate did not take into account the very substantial share-issue expense to be incurred in 1965, an expense which Mr. Kennedy had said would exceed \$4 million. He observed, however, that there was in such expense elements which had not arisen previously; namely, the premium on redemption of preferred shares and the tax on that premium, but he conceded that these elements would have to be considered along with the reduction in the rate of preferred dividends which resulted from the redemption. He said it was a question of what was the right way of handling premiums and the taxes thereon when this resulted in a tax-free distribution to individual shareholders, but agreed that there would be a long-term benefit to subscribers in reduced dividend expense, and that such benefit could not be obtained without incurring the expenses of issuing the new issue and redeeming the old.

(b) In re the Company's Economic Review:

Mr. J.R. Meredith, Assistant Director of the Provincial Government Bureau of Economics and Statistics, gave evidence with respect to the Company's economic

review as it related to the economic development of British Columbia and the effect of that development on the Company. He stated he did not agree with the views expressed by Mr. Phillips on these matters. In his opinion, the three most significant economic indicators to be considered in evaluating the Province's economic development as it affected the Company were: (a) An examination of the Province's commodity-producing industries; (b) An examination and history of personal income in the Province; and (c) A study and examination of the number of persons gainfully employed in the Province.

Dealing with his first significant economic indicator, Mr. Meredith introduced as Exhibit No. AG-2 a photostat of a semi-logarithmic chart issued by the Dominion Bureau of Statistics showing for Canada and for each Province the "Net Value of Production in Commodity-Producing Industries, Canada and Provinces 1935-1962". He stated it was quite apparent from an examination of the chart that British Columbia's record of performance compared favourably throughout the whole period with both Ontario and Quebec and was an improvement over the record of many of the other Provinces. The use of semi-logarithmic paper was the only statistically-sound method of portraying actual growth rates, because portrayal on an arithmetic basis would distort the records. Although the inclusion of construction figures for the Yukon and the Northwest Territories in the British Columbia curve made it somewhat less reliable, such figures were very insignificant.

Exhibit No. AG-5, a semi-logarithmic graph entitled "Selling Value of Factory Shipments for Selected Regions and Provinces 1952-1964", was also relevant to a consideration of Mr. Meredith's first economic indicator. It compared Canada, Ontario, Quebec and British Columbia. Mr. Meredith stated it showed that British Columbia's record compared quite favourably with Canada and the other two Provinces, a fact which was particularly significant when considering British Columbia's export-oriented economy in which the forest industries were so dominant.

The performance of Mr. Meredith's second economic indicator was illustrated by Exhibit No. AG-3, a semi-logarithmic chart entitled "Personal Income for Selected Regions and Provinces 1952-1964", which showed that the record of performance in British Columbia compared favourably and equally with that of Ontario and Quebec and also suggested a greater stability than that enjoyed by the Prairie Provinces as a whole.

Mr. Meredith's third economic indicator was portrayed in Exhibit No. AG-4, a semi-logarithmic chart entitled "Total Employment for Selected Regions and Provinces 1952-1964". He stated that the number of persons gainfully employed was a much more significant economic indicator than unemployment figures. Once again, the record of British Columbia compared very favourably with Canada, Ontario, Quebec and the Prairies. While unemployment figures

did indicate the degree of manpower utilization, the real measure of stability was the level of employment. Although unemployment in British Columbia had increased substantially in 1956, 1957 and 1958, it was partly attributable to the fact that net immigration into the Province was at the rate of 4% in 1956 and at the rate of 6% in 1957, and it took several years to assimilate such numbers.

As to the question of evidence of volatility in the economy of British Columbia, Mr. Meredith said there had been volatility in the sense that there had been variations in economic growth, but such growth never occurred at the same rate every year over a period of time. The degree of "volatility" experienced by British Columbia had not been significantly different from that experienced by Ontario and Quebec, and there had been a much lesser degree of fluctuation in British Columbia than in many of the other Provinces. In this connection, Mr. Meredith compared his Exhibit No. AG-1, a semi-logarithmic chart of "Gross National Product - Canada; Gross Provincial Product - British Columbia; 1954-1964", with the Company's Exhibit No. BC65-A-10, a bar chart of the same information showing percentage rates of change. He pointed out that the gross provincial product had expanded at a consistent rate, except perhaps for one year, and that this rate did not differ significantly from the gross national product. In any event, the gross provincial product might not be the most appropriate measure to use since it was a computed figure based to a large extent on provincial personal income and an apportionment of certain sectors of the national economy.

With respect to the significance of construction expenditures as an economic indicator, Mr. Meredith stated that, while they were important, they did not warrant the emphasis given to them in the Company's evidence, and he was unable to agree with the information on this subject set out in the Company's Exhibit No. BC65-A-6. That exhibit showed Canadian construction expenditures for 1964 as 23% of gross national product, and British Columbia construction expenditures for the same year as 35% of gross provincial product, whereas such figures should have been 18.4% and 20.8% respectively. Should the Company have wished to show the relationship between total capital and repair expenditures and gross national product and gross provincial product, the correct 1964 figure for Canada was 30.3% and for British Columbia 35%. The significance of these errors was that the figures presented in Exhibit No. BC65-A-6 left the erroneous impression that construction expenditures assumed a vastly greater importance in the provincial economy than they did in the national economy. While construction activity in British Columbia had increased substantially in the past few years, there was no evidence to support the statement of Mr. Phillips that "The bunching of substantial construction expenditures in the next two years will probably lead to a letdown in the late sixties." There was, on the contrary much evidence to suggest that the upward trend in capital expenditures would continue without interruption over the next five years at least.

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Dealing with Mr. Phillips' statement that the northern areas of the province had expanded at a very much faster rate than that for the Province as a whole, Mr. Meredith agreed that such areas had shown remarkable growth over the past decade, but he pointed out that, during the decade 1951-1961, the provincial population had increased by 463,800, of which 68,900 was in these northern areas, so that the vast bulk of population growth occurred in already developed centres. He also introduced tables which he said suggested that the pattern of population distribution within the Province would not be materially altered within the next decade. As to the suggestion that the faster growth rate in the outlying areas was leading to instability in the Provincial economy, he was of the opinion that the reverse might well be the case, because the highly-capitalized projects now being developed would provide an economic stability to these areas which they had never previously possessed.

In conclusion, Mr. Meredith stated that all reasonable expectations pointed to a rate of economic development in the Province that would exceed the national average. Firm developments that were taking place and those that were projected for the near future more or less assured a continuation of the present growth pattern, and he did not foresee any reasons for a down-turn in the national economy.

During cross-examination, Mr. Meredith agreed that there was some discernible levelling-out of gross national product in Exhibit No. AG-1 in the period 1957-1958, followed by a decline and a flattening-out during the period 1960-1961, and by a rise afterwards. He also agreed that there were apparently similar movements in the curve for British Columbia in Exhibit No. AG-2, but pointed out that variations of one-half or one per cent did not have the same validity as the Canadian gross national product figures and thus had to be used with a great deal of caution. Mr. Meredith further agreed that the curves on Exhibit Nos. AG-3 and AG-4 exhibited similar periodic movements and that Exhibit No. AG-5 showed a slowdown during the years 1960-1961.

Mr. Meredith conceded that much of Mr. Phillips' evidence was factually correct, but said he had fundamental differences of interpretation with Mr. Phillips. He stated he was forecasting a general, steady growth marred by some problems. There was, however, so much built-in stability in the Province that it was hard to imagine a downturn in the economy in the foreseeable future. He agreed with Mr. Phillips as to the favourable long-range development of the future, but he differed materially with him on his interpretation of volatility in the British Columbia economy, because that economy was becoming diversified to a greater and greater degree. The Province was also consolidating its position in its markets.

(c) In re the Permissive Level of Earnings and the Bases for its Assessment:

Mr. Samuel Joseph, Vice-President of A. Zinder and Associates, a firm of public utility consultants in Washington, D. C., U. S. A., gave evidence with respect to that portion of Dr. Nicholson's evidence dealing with the capital-attraction test. In Mr. Joseph's opinion, both the theory and the procedure used by Dr. Nicholson in this aspect of his evidence were invalid from the regulatory point of view, because there was an obvious circularity in the proposition which relied upon the rate of return earned in the past to determine the permissible rate of return for the future.

The past trend of stock-market prices would probably be the result of similar trends in earnings and dividends. Thus, the fair rate of return determined under Dr. Nicholson's system would tend to increase for the company whose earnings had been relatively high and rising, and would tend to decrease for the company whose earnings had been poor and falling, a result which would be exactly contradictory of the result required under sound regulatory theory. Such theory would require some downward adjustment in the case of the company whose earnings had increased beyond reasonable levels, but Dr. Nicholson's discounted-yield theory would simply show that investors' demands automatically increased as the return of the company increased. In this connection, Mr. Kennedy had also used increasing past earnings in support of his claimed fair rate of return.

In Mr. Joseph's view, if market prices were to enter into the procedures for determining a fair rate of return for a public utility, then it was the trend of earnings-price ratios, or dividend-price ratios, rather than Dr. Nicholson's discount rate, that was more significant. In addition, such procedures would entail consideration of the prices of the stocks of other, comparable companies, which were more important than the price of the stock of the utility in question. Earnings-price ratios were almost always a part of the record in rate cases in the United States in testimony relating to the issue of a fair rate of return. Dr. Nicholson had found 12.430% as the middle value of all yields received by investors in the common stock of British Columbia Telephone Company during the period 1951 to 1964, and had concluded that the average rate of return demanded by the investor over a long period was his 12.430% average cost of common equity capital. Mr. Joseph, however, had calculated the Company's earnings-price ratios for the same period and had found that, although they had ranged between 8.082 and 4.071, there had been a general decline in such ratio over the period. Mr. Joseph's calculations are set out in BOARD TABLE IX below.

Mr. Joseph went on to say that he did not consider that either the earnings-price ratio of Dr. Nicholson's discounted yields could be used to determine a fair rate of return on common equity without the exercise of a very considerable amount of judgment, because fluctuations in the market price of a regulated utility's common stock were of little help in resolving the problem.

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He emphasized, however, that where market prices had been used for this purpose by regulatory agencies, the earnings-price ratio method, rather than the discounted-yield method, had been used as the basis. The market price of a utility's common stock would be greatly influenced by considerations that were difficult or impossible to isolate and measure. Such considerations would include: (a) The investor's reaction to the fact that more than 50% of the Company's common stock was owned by a parent company; and (b) The investor's opinion as to the rate of return that the regulatory agency would permit the Company to earn.

Another important criticism of Dr. Nicholson's discounted-yield method related to the fact that he had applied his average yield of 12.430% to capitalizations which he constructed from the market values of the Company's various outstanding securities and shares. Because the Company's common stock sold at a far higher premium above book value than did the preferred or preference stocks or the bonds, this resulted in the production of a capital structure with a greater percentage of equity than was shown on the Company's books or in its published balance sheets. This had an effect which was similar to that produced by the restatement of an actual-cost rate base to reflect reproduction cost (new) or any other inflated value, a practice which had been condemned by most regulatory commissions in the United States. Mr. Joseph stated he had made a comparison of the amounts of common equity capital appearing on the Company's books with the market values used by Dr. Nicholson. (This is reproduced below as BOARD TABLE X). This comparison gave some idea of the degree to which Dr. Nicholson's capitalizations gave greater weight to common equity than would have occurred if capitalization ratios had been taken from the Company's books. Since common equity capital received the highest fair rate of return, the difference between market-value and book-value ratios would generally be in favour of the Company.

BOARD TABLE IX
EARNINGS-PRICE RATIOS FOR THE COMMON STOCK OF BRITISH COLUMBIA
TELEPHONE COMPANY, 1951-1964

YEAR (as at December 31st)	MARKET PRICE (as at December 31st)	EARNINGS PER SHARE	EARNINGS-PRICE RATIOS
1951	\$33.75	\$1.76	5.215
1952	34.50	2.14	6.203
1953	35.88	2.90	8.082
1954	44.25	2.71	6.124
1955	49.75	3.28	6.593
1956	45.00	2.86	6.356
1957	38.00	2.62	6.895
1958	42.25	1.72	4.071
1959	42.50	3.04	7.153
1960	47.00	2.78	5.915
1961	50.75	3.10	6.108
1962	51.25	2.85	5.561
1963	57.12	3.31	5.795
1964	65.00	3.67	5.646

Source: Transcript of Evidence, page 8412.

BOARD TABLE X

RATIOS OF COMMON EQUITY TO TOTAL CAPITAL, BRITISH COLUMBIA
TELEPHONE COMPANY
1952-1964

YEAR	<u>COMMON STOCK PER DR. NICHOLSON</u>		<u>COMMON STOCK PER BOOKS</u>	
	<u>MARKET VALUE</u>	<u>PERCENT OF TOTAL CAPITAL</u>	<u>BOOK VALUE</u>	<u>PERCENT OF TOTAL CAPITAL</u>
1952	\$16,560,000	26.48%	\$14,953,577	22.08%
1953	22,963,700	29.67	19,918,912	25.04
1954	35,400,000	31.16	25,337,862	28.21
1955	39,800,000	32.79	26,160,968	27.12
1956	54,000,000	32.82	43,060,762	35.68
1957	45,600,000	32.86	43,443,586	27.86
1958	50,700,000	35.10	43,848,115	24.89
1959	63,750,000	36.20	55,505,989	27.38
1960	77,268,000	36.48	62,039,202	26.28
1961	97,338,500	38.42	73,921,407	27.90
1962	117,957,000	39.94	90,636,977	32.18
1963	131,467,392	40.83	92,573,242	31.32
1964	149,604,000	42.54	95,505,057	29.99

Source: Transcript of Evidence, page 8417.

In the course of cross-examination, Mr. Joseph was referred to quotations from the 72nd and 74th Annual Convention Reports of the National Association of Railroad and Public Utilities Commissioners of the United States, dated 1960 and 1962 respectively, which criticised or questioned the use of earnings-price ratios. Mr. Joseph stated he subscribed to the statements made in these quotations and pointed out that he did not understand them as contradicting or conflicting with anything he had said. To his mind, Dr. Nicholson had simply used the process in reverse. When earnings-price ratios were declining, this was frequently accompanied by a rise in stock prices. Dr. Nicholson had used the rise in stock prices to come to his answer, and this was the very point Mr. Joseph was criticizing. He agreed that determination of the cost of equity required a great deal of analytical skill, experience and judgment, and that the mechanistic use of earnings-price ratios, especially short-run ones, was to be viewed with healthy scepticism.

Mr. Joseph stated that the earnings-price ratios he had calculated in respect of the Company, (see BOARD TABLE IX), did not include the value of rights and did not include anything for the growth in value of the Company's shares during the period in the same sense that Dr. Nicholson's 12.430% had included the increase in the price of the shares. He suggested, however, that the solution to the problem of price increases was more readily dealt with by the

earnings-price ratio method than by the discounted-yield method. At the end of 1958, the earnings-price ratio for the Company's common stock had been 4.071, reflecting a quite undesirable situation that was probably responsible in some considerable measure for the relief that the Company had obtained. In the period since 1958, it was obvious that investors' valuations of this stock had improved year by year since they had paid more and more for the Company's earnings. It was in this fashion, said Mr. Joseph, that earnings-price ratios might be used by the Board as an objective standard against which to measure the rate of return allowed.

Counsel for the Company then referred Mr. Joseph to the Company's Exhibit No. BC65-J-2, which set out yields to purchasers of the Company's bonds, and he compared such yields with the earnings-price ratios calculated by Mr. Joseph for the years 1960, 1961 and 1964. Since the bond yield of 5.66% for the 1964 issue was higher than the price-earnings ratio of 5.646 for the same year, Counsel asked whether an investor looking at such earnings-price ratios would ever buy any of the Company's common stock, in preference to its bonds. Mr. Joseph replied that the investor obviously did not look at it in this way, but he pointed out that the same difficulty in comparisons with bond yields was inherent in Dr. Nicholson's presentation as well.

2. SUMMARY OF EVIDENCE AT THE HEARING:

(v) REPRESENTATIONS OF THE COMMUNIST PARTY OF CANADA, VANCOUVER, B. C.:

During the course of the hearing, the Board referred to a letter dated October 25, 1965, addressed to the Board at Ottawa by the Communist Party of Canada, Vancouver, B. C., and forwarded by the Board's headquarters to Vancouver. After certain statements as to the Company's telephone rates, profits and affiliations, this letter concluded as follows:

"We are strongly of the opinion that this vital utility should be brought under public ownership to provide the people of this province with this essential service at cost. Meanwhile, however, we call upon your Commission to extend the scope of the present hearing to include a thoroughgoing examination and study of the rate structure, expenses and operating surpluses of the B. C. Telephone Company and all its subsidiary and related companies.

"Any further delay or failure to come to grips in a forthright and impartial manner with the price gouging of this monopoly and bring about a reduction in the present exorbitant rates will stand as an indictment of the Commission."

No appearances were made by any person on behalf of the Party.

3. SUMMARY OF ARGUMENT AT THE HEARING:

Much of the Argument of Counsel necessarily involves a summary of the essential points of evidence adduced at a hearing. Because a summary of such evidence has been presented at length under section 2 above, it will not be repeated here except insofar as it is considered necessary to present the views of Counsel with respect to matters which may not have been completely explored or resolved during oral testimony, or except insofar as needed to make clear the points emphasized by Counsel. The emphasis of this summary of Argument will be placed upon the regulatory principles advocated by Counsel, particularly with reference to the permissive level of earnings and the basis for its assessment, and upon the jurisprudence cited by them. The omission of any particular points of Argument in this summary is not to be taken as implying that they were not given careful consideration and due weight by the Board in arriving at its decisions. All of the Argument presented to the Board, which is contained in four volumes of the Transcript of Evidence totalling some 600 pages, has been carefully reviewed and considered by the Board.

(a) On behalf of the Company:

(1) Introduction:

In opening his Argument, Mr. Taggart referred to what he described as the operative paragraph of the Board's Notice of March 1, 1965, reading as follows:

"The periodic studies made by the Board's staff and the information supplied by the Company from time to time show that there have been certain changes in capital investment, revenues, expenses, debt charges, dividend payments and retained earnings of the Company, and it would appear to be in the public interest that the Board should hold a review, by way of public hearing, to consider the capital investment, revenues and expenses, debt charges, dividend payments and retained earnings of the Company and the permissive level of the Company's earnings and the basis on which such permissive level may be authorized for telephone rate purposes."

The Company had used that particular paragraph as its guide in the preparation of the materials it had presented to the Board. In addition, it had provided to the Attorney General of the Province of British Columbia, and to his advisors, a very considerable body of additional information, most of which would be found in the "green book",* copies of which had been furnished to the Board, and to which reference had been made throughout the proceedings.

(2) The Review of Operations, Revenues and Expenses:

It was argued that the best demonstration of the Company's success in controlling expenses was given by the decline in its operating ratio over the period 1959-1964, from 66.1 to 62.9, despite rising costs, particularly wage costs.

The diligence and skills of all employees had enabled the Company to keep the

*-"Green Book" - A compilation of Intervenor's Requests for Particulars.
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percentage increase in operating expenses below the percentage increase in operating revenues and below the percentage increase of plant in service. Nevertheless, revenues per \$1,000 of telephone plant had exhibited a declining trend until 1964 when there was a slight increase.

The importance of the change in the composition of revenues was stressed. Toll revenues, a less certain source of revenue, had increased to a greater extent than local-exchange revenues; a greater proportion of revenues now came from discretionary services which could be readily discontinued by customers; and there had been an increase in revenues from non-regulated services which were subject to full and complete competition. Once toll plant was established, it had to be maintained and its associated expenses generally continued, even though the level of toll revenues might decline.

The Company had expanded, and was continuing to expand, to meet all demands for constantly-improving, modern communications services throughout the Province. The pattern of development in the northern areas of the Province was particularly significant. Increasing sums of capital had been committed to the enterprise and the associated costs of that capital had, to a degree, been substituted for the costs of labour. The past six years had been a period of accelerated technical change that would undoubtedly continue unabated. Thus, the growing risk of plant obsolescence would be reflected not only higher levels of capital expenditure, but also in increased depreciation expense.

(3) Construction Expenditures:

The significant results of the Company's construction program during the past six years were reviewed and it was noted that there had been a constant increase in the productivity of construction work forces. Sound plans had also been made for capital projects over the next five years. Evidence placed before the Board had demonstrated that the Company's construction programs were carefully administered to ensure they were carried out in the most effective manner and at the least cost.

(4) Purchasing Policy and Special Contracts:

It was argued that the Company's evidence with respect to its purchasing policy demonstrated the care it took in assessing the purchases it made. Outside-plant materials, (20.6% of all purchases), were purchased on a purely competitive basis. Exchange-switching equipment, (14.2% of all purchases), in which compatibility was the essential feature, was purchased from a single supplier, Automatic Electric, under a bulk-ordering system which had resulted in price reductions. Comparative studies of the Company's installations with those of other telephone companies purchasing similar equipment from Automatic Electric, Northern Electric, or other suppliers, clearly demonstrated that the

Company's purchasing system brought it out ahead of these other telephone companies. This was so, even when the most generous allowances were made for computations in areas where there was not exact comparability of equipment. Subscribers' station equipment, (35.8% of all purchases), was purchased from a single supplier, Automatic Electric, because compatibility was a key feature although it was not as important a factor as in the case of exchange-switching equipment. However, in every instance except one where there was a difference of 50 cents, the prices to the Company were the same as, or lower than, the prices offered by Northern Electric. In addition, Automatic Electric equipment had better technical features than did Northern Electric equipment. Radio and multiplex equipment, (20.3% of total purchases), was purchased from Lenkurt Electric, a company which was a leader in its field and was currently installing some 35% of all radio or multiplex systems in Canada. Standardization was important for such equipment, but relative cost studies made by the Company had indicated that its purchase prices in this field compared favourably with those paid by other telephone companies. Miscellaneous equipment and supplies, (9.1% of total purchases), were purchased for the most part by competitive tender.

It was also argued that the Company had clearly demonstrated its very real control over purchases, both from affiliated and non-affiliated suppliers. This had been expressly accepted by Mr. Dale-Harris, (witness for the Attorney General of the Province of British Columbia), when he had said he had seen nothing to indicate that any of the payments made had been excessive, or that the Company was paying more for goods and services than it should. The Company's purchases from Automatic Electric Canada Limited were estimated at 25% to 30% of the latter company's sales. Automatic Electric sold to a great variety of companies in Canada and elsewhere and its relationship to British Columbia Telephone Company was not in any way comparable to that existing between Western Electric and the A. T. & T. or between Northern Electric and The Bell Telephone Company of Canada. To suggest, therefore, as Mr. Dale-Harris had done, that the profits of Automatic Electric should be limited to the return the Board might see fit to allow British Columbia Telephone Company from time to time was a fallacious argument that was simply not tenable.

With respect to the three special contracts with Canadian Telephones and Supplies Limited, with the Dominion Directory Company, and with General Telephone Service Corporation, it was submitted that the Company had shown the desirability of the arrangements covered by them, as well as their reasonableness and propriety from the point of view of their costs or the payments made thereunder. Fundamentally, the services under the first contract related to construction, the requirements for which fluctuated considerably and brought with them the problem of a fluctuating number of employees. The results obtained

from the directory contract had manifestly been of benefit to the Company, because it led the field in Canada in the amount of directory revenues per business station. In addition, changes in the terms of the contract since 1959 had resulted in savings to the Company. As to the service contract, all telephone companies had similar arrangements and there could be little doubt as to the necessity for the services furnished. The value of any particular service under the contract was virtually impossible to gauge. In many instances, only the future would tell whether such value had been relatively great or relatively small. In any event, no single telephone company could possibly maintain the very broad range of services provided by such a contract.

All three contracts, and the payments made thereunder, had been dealt with by the Board in each general increase case since 1950 and, on each occasion, the Board had approved of management's decision to conduct its business in this way. No grounds had been shown to the Board in the present proceedings which would suggest there should be any change in circumstances.

(5) Pension Expense:

Counsel suggested that the evidence of Mr. Dale-Harris on the matter of pension costs was equivocal. The witness had stated he could not quarrel with what the Company had done up to the end of 1964, but he had also said that the effect of the changes made had been to increase pension costs very sharply over the 1959-1964 period. In questioning the actuarial estimate of fully funding the plan, which Mr. Dale-Harris thought might be too high, Mr. Dale-Harris had said that the action to fully fund would reduce future annual costs by something like \$700,000 under the actual 1964 costs. If by this he meant that the \$700,000 should not have been incurred in 1964, then this was simply an amount that would have to be incurred in 1965 and following years. It was therefore difficult for Counsel to understand why Mr. Dale-Harris should have made any comment on a matter which he appeared to have found to be proper in 1964. As to the suggestion that the actuaries had been too conservative in their approach, the short answer was that the fund was reviewed periodically and all the matters referred to by Mr. Dale-Harris would have to be taken into account during these reviews as they had been in the past. It was far better to be conservative at the outset so as to have the fund actuarially sound, making adjustments as time went on to ensure there was no overcharge to pension costs.

With respect to the statement that there had been no recognition of unfunded pension liabilities until the steps towards funding had been taken over the last few years, an examination of the revenues available to the Company for this purpose in the post-war years would provide a perfectly sound answer. Mr. Dale-Harris had agreed that the unfunded costs now being picked up were proper costs

to be absorbed by telephone subscribers in their rates, but he thought they should be partially absorbed by any excess accumulation of surplus that might have occurred since 1958. He based this opinion on Bulletin No. 21 of the Canadian Institute of Chartered Accountants, but it was abundantly clear from the language of this Bulletin that it did not contemplate any such procedure. On the contrary, the Bulletin provided two alternatives: either a single charge to surplus, or amortization as charges to operations over future years. Since there was no sanction for the type of charge he appeared to have in mind, his whole approach was fallacious. In conclusion, Counsel emphasized that the essential distinction between the situation today and what it was formerly was the matter of funding, but the costs had always been there.

(6) Depreciation:

The evidence had shown that the Company did have careful depreciation study methods and that it was exercising a control over this expense to the extent it was possible to do so. It was also clear that the interests of subscribers and shareholders really merged in this area of expense, because too high or too low a depreciation rate was in the interests of neither. As to the question of equating the total-life method to the remaining-life method, the continuing studies made by the Company, in effect, accomplished this.

(7) Economic Review:

In presenting the economic review, it had not been the Company's intention to become embroiled in controversy as to what the future held for British Columbia. Rather, the Company had intended to show it was aware of the necessity of maintaining a continuing appraisal of economic conditions in Canada as a whole and in British Columbia in particular.

As to the use of the term "volatility", it had not been the intention to suggest a widely-fluctuating economy that was out of control. The intention had been to demonstrate that the economy was not a stable one, in the sense that there were changes from year to year. Equally, revenues and expenses were not perfectly stable, because there were changes in them from year to year.

Mr. Phillips' concern as to a possible future levelling-off in the economy after 1967 was expressed in somewhat firmer tones with respect to Canada as a whole than it was with respect to British Columbia. In any event, the Company's planning did not contemplate a recession in 1967.

(8) Security Issues:

The first significant feature of the Company's 1965 financing was the redemption of an outstanding \$12 million issue of 6¼% Cumulative Redeemable Preferred Shares and the refunding of that amount by an issue of 4.84% Cum-

ulative Redeemable Preferred Shares. All the costs of this refunding would be absorbed by the accruing benefits within a period of six-and-one-half years. The second significant feature was the recently-concluded ordinary share issue at a price of \$57, the lowest discount from market price at which the Company's common shares had ever been issued. This issue at a low discount would not have been possible if the Company's original dividend policy had remained in effect. Although it was true that shareholders had benefitted from additional dividends, it was equally true that the Company had been thereby enabled to raise significantly greater amounts of ordinary share capital than would otherwise have been the case.

Exhibit No. BC65-J-5, ("Cost Rate of Paid-In Capital", filed by Mr. Kennedy), had shown that the Company compared favourably with other Canadian telephone companies in respect to dividend and interest costs. Mr. Brown had also stated that the Company had been successful in pricing its issues almost exactly, because only the normal percentage of each issue had been purchased by institutions, and that the favourable results of the Company's bond issues indicated its careful and prudent approach. In the opinion of Counsel, Mr. Brown's comments on the Company's capital structure, particularly its debt ratio, merited careful consideration by the Board in its general approach to the permissive level of the Company's earnings.

The sinking-fund provision of the Company's bonds was a feature that was favourable to the Company's subscribers, but the problem of redemption would arise in 1971. As to rights' issues, Mr. Brown had pointed out that they were frequently used by utilities and he had stated they produced about the same results as would have been produced by way of underwritings. Finally, Mr. Brown had said management had demonstrated full competence in all phases of financing.

(9) Preferred Dividends on the Write-Up of Assets in 1927:

Counsel pointed out that, while Mr. Dale-Harris had used a dividend charge of \$240,000 per year in respect of the preferred shares issued in 1927 against an appraisal write-up of \$4 million, the actual issue was \$4.5 million with a dividend charge of \$270,000 per year. He assumed, therefore, that Mr. Dale-Harris had reduced the amount of dividends by \$30,000, because a portion of the issue was a charge to surplus, and because he did not appear to deny the Company that portion of the dividend cost.

It was, Counsel said, certainly virtually impossible now to ascertain what happened back in 1927. One could only go to the Board's Judgment of 1950 to see how this matter was dealt with. The transcript of evidence taken during the 1950 hearings contained frequent references to this matter. A legal opinion was given to the Company at the time of the transaction, with respect to the

entire legality of the appraisal write-up and the issuance of \$4.5 million preferred shares on the basis of that appraisal. Counsel thought the transcript of evidence in the 1950 case would bear him out on this point. He submitted that, unless there was good reason to go behind the Board's 1950 Judgment, the matter ought not to be disturbed.

In this connection, Counsel quoted the following paragraphs from the Board's 1950 Judgment, (66 C. R. T. C. 7; 40 J. O. R. & R. 215):

"The adjustments referred to comprised a re-writing of certain assets placed on the books at their then existing value rather than actual cost. These consisted of, first, an amount of \$4,037,519 by which said assets were increased, second, an amount of \$388,458 by which certain assets purchased in 1929 were increased after appraisal; and third, an amount of \$20,684 by which certain assets were increased when purchased in 1931. Together with these adjustments, the reserve for depreciation shown by the company's books was increased from \$15,874,715 to \$18,391,668.

"Counsel for the Province of British Columbia advanced the opinion that the base to determine the value of the company's property should be prudent capital investment. On this basis, there would be deducted from the capital investment of \$44,354,000 an amount of \$4,037,519 representing 6 per cent preferred stock issued in 1927 and charged to an appraisal write-up of the plant account.

"The adoption of such a method would not, in my opinion, necessarily afford a suitable measure of a rate base, inasmuch as securities may have been issued at less than par, or as bonus stock, or property may have been purchased in exchange for securities having a par value different to the reasonable cost of the property acquired. Furthermore, any long-continued policy of reinvestment of earnings is likely to result in the par value of outstanding securities being less than the investment in the property.

"Evidence of the company has clearly established that prudent investment, or historic cost, means prudent investment in property or prudent historic cost, and on the historic cost basis stated the company claims if allowed a fair return at 6½ per cent it would yield \$536,125 more than the amount sought under this application."

On each occasion following the 1950 case, said Counsel, the dividend cost referred to by Mr. Dale-Harris had been included in the expenses of the Company used by the Board, prior to determining the permissive annual addition to surplus. Thus they had been recognized and dealt with by the Board.

As to the powers of the Company to redeem the 1927 issue of preferred shares, a legal opinion had been given to the Company many years ago that it did not have such power because they were issued at a time when neither the

Company's Act of Incorporation nor the Companies Act of Canada, (now the Canada Corporation Act), conferred such power on the Company. Subsequently, the Company's special Act was amended in 1941, granting it power to make further issues of preferred shares and to redeem those shares. Thus, the legal opinion was that the Company could redeem these further, or later, issues, but not the earlier ones.

Mr. Dale-Harris had said that it was possible that the \$4 million write-up had been depreciated over the years and had been fully amortized; if that were the case, depreciation charges had been greater than they would have been to that extent. He then went on to say that, if the \$4 million had not been depreciated, one might be left with a dividend charge of \$240,000 per year that was not really justified as being recoverable in telephone rates. Counsel said he was a little at a loss to understand this. Mr. Dale-Harris, on the one hand, appeared to conclude that full depreciation or amortization of these depreciable assets in the past would be satisfactory, in which case there would be no necessity to enquire into the matter. The fact was, said Counsel, that the \$4 million write-up had been depreciated and had long since disappeared from the plant account. But then Mr. Dale-Harris had gone on to say that if the \$4 million had been fully depreciated, depreciation charges had been greater than they would have been to that extent. Counsel commented that he was unable to follow Mr. Dale-Harris' reasoning here, because the assets were shown to have the value by the appraisal and, if they had that value, then surely it would be proper to depreciate them on the basis of that value.

(10) Share-Issue Expense:

Counsel noted that share-issue expense had been treated by the Board in all its Judgments as an expense of doing business. Under the fiscal-requirements method, it was an expense that had to be met before making a determination as to the annual addition to surplus. Mr. Dale-Harris was, apparently, not suggesting that this was an expense item that should not be allowed, but he had inferentially complained about the difficulty of ascertaining the amount of that expense and had suggested such amount should be amortized over some period of years, perhaps 20 to 40 years. The difficulty was, however, said Counsel, that ordinary shares were not callable and had no period within which they had to be redeemed; the selection of the period for amortizing share-issue expense must, therefore, be arbitrary. There was no basis in logic for the amortization approach, but there was every logic in the Board doing what it did in the 1958 case, and previous cases, with respect to this expense. In those cases, the Board had taken cognizance of the amount of share-issue expense incurred by the Company during the period under review and had then fixed an amount which, in its judgment, would satisfactorily meet this particular expense item. Although this expense had varied in any one year from nil to some \$1.2 million, it had

averaged some \$330,000 annually over the 1959-1965 period. Such variations from year to year were not, however, a reason for making any change to an amortization approach; the subscribers had not thereby been deprived of anything, they had not borne any additional expense they would not otherwise have had to bear, there had been no change in telephone rates, and there was no prospective increase in such rates because of this particular expense item.

Counsel emphasized that his remarks on share-issue expense up to this point had been based on the fiscal-requirements approach only. Under a return-on-total-invested-capital approach, or under a return-on-rate-base approach, entirely different considerations would apply. In fact, under these latter approaches, this particular problem of share-issue expense would disappear. It would, however, reappear in these approaches at the point where consideration was being given to the allowable return and an extra percentage amount for this would have to be included in the percentage rate of return. As to Mr. Dale-Harris' statement that the Public Utilities Commission of British Columbia amortized share-issue expense over a period of 100 years, this was incorrect. It was only the fees payable to the Commission by the utility in respect of applications made to the Commission by it that were so amortized. Utilities under the jurisdiction of that Commission carried share-issue expense in a deferred-charge account and recovered it against the return allowed by the Commission on the rate base, and the Commission in fixing that return presumably had in mind that such expense was one of the items the utility had to be allowed to recover. Counsel for the Attorney General of the Province of British Columbia commented at this point that he had no means of checking these statements as to the practice of the Commission, but felt sure the Board could confirm if they were so.

In conclusion, Counsel for the Company quoted the following paragraph from the Board's Judgment of July 18, 1958, (77 C. R. T. C. 303; 48 J. O. R. & R. 225):

"In the circumstances of this particular case it seems to the Board that, for rate making purposes, it is more appropriate to allow such an item to be considered as a charge against earnings, rather than to have it obscured in the permissive annual surplus. At such time as the Company's capital expansion programme diminishes, steps will be taken by the Board to eliminate any such item from allowable expenses. The Board therefore finds that \$400,000 is a reasonable amount to allow as a charge against earnings for share issue expense at this time."

He noted that there was no prospect of the capital expansion programme diminishing for some time ahead and suggested that, if the Board had agreed with Counsel for the Attorney General and his financial advisors of the day as to the treatment of this expense, the Board would have come to the conclusion that

the permissive level of surplus would be something in excess of the \$1.5 million allowed. Obviously, share-issue expense and surplus were so closely inter-related that one item could not be changed without changing the other and this, in the opinion of Counsel for the Company, was a much more logical approach, so long as the fiscal-requirements method was used.

(11) Charitable Donations:

It was submitted that the Board had commented on charitable donations in previous Judgments and had approved them; whether commented on or not, they had been treated as an expense by the Company and had been allowed by the Board. In such circumstances, therefore, the proper procedure was to ascertain what if any change there had been in this particular expense since the last Judgment of the Board. Counsel conceded that the Board had untrammelled discretion in these matters, but nevertheless he felt precedent must count for something and some good reason ought to be shown for changing the treatment the Board had accorded this expense in 1958.

The only significant change accorded this item since 1958 was that the Company had made a donation of \$850,000, payable over five years, to the Three Universities Capital Fund, the three universities being the University of British Columbia, Simon Fraser University and Victoria University. This was a donation to a capital fund drive that the Company had seen fit to make, as had every large corporation and hundreds of small corporations. In these circumstances, Counsel suggested that there had been a totally insufficient change in the situation since 1958 to require any change in the Board's approach to this particular matter.

Mr. Dale-Harris had said that, as far as he knew, the general practice of regulatory bodies on the North American continent was to treat charitable donations as something which should be paid out of shareholders' profits, but he had conceded under cross-examination that the practice of the British Columbia Commission was to treat educational donations as being proper expenses. Counsel had also been instructed that the regulatory bodies in Nova Scotia and New Brunswick allowed donations as expenses. While it was obviously a time-consuming business to try to ascertain what was the practice of the vast number of regulatory bodies in the United States, Counsel had references to some cases on this very point, in which the general principle was expressed that utilities, like other corporations, had an obligation to be good citizens, and that that obligation extended to the making of donations. He made the following citations:

(a) Andrew Vrtjak v. Illinois Bell Telephone Company, 32 Public Utilities Reports, 3rd. Series, page 385, commencing at page 388:

"It seems to us that the current trend of decisions recognizing utility contributions as proper operating expenses is not only in keeping with

sound thinking as to corporate responsibility but is also realistic in terms of the advantages thereby derived by the contributing utility."

Counsel commented by saying that he assumed a tax benefit accrued.

(b) *Re General Telephone Company of Florida*, 44 *Public Utilities Reports*, 3rd. Series, page 247 at page 254:

"This item amounts to \$38,989 and represents contributions and fees for various local organizations and charities. Public utilities must be good citizens and the public expect contributions such as these. It would be a rather strained construction to say that such items in reasonable amounts are not a permissible part of the operating costs of a public utility. We consider the amounts involved here as reasonable in amount and for proper purposes."

(c) *Re United Gas Pipeline Company*, (Federal Power Commission, 1964), 54 *Public Utilities Reports*, 3rd. Series, page 285, at page 295:

"We believe that contributions of a reasonable amount to recognized and appropriate charitable institutions constitute a proper operating expense. Corporations have an obligation to the communities in which they are located, and they are expected to recognize this obligation. It is our opinion that these contributions have an important relationship to the necessary costs of doing business."

While there was a dissent in the United Gas Pipeline case, Counsel noted that the foregoing was from the majority Judgment. He also emphasized that the authorities cited clearly indicated that the donations must be reasonable and proper — reasonable as to the recipient and reasonable as to the amount. There was also, of course, the inevitable tax saving in making such donations and thus, the after-tax amounts were the better measure of the Company's contribution.

(12) *Income Tax and Capital Cost Allowances:*

Counsel said it was clear that the matter of income tax and capital cost allowances had been more than thoroughly canvassed throughout the various cases heard by the Board in 1957 and 1958. It had been an issue in the railway freight rate case, in the Bell Telephone general increase case, and in the British Columbia Telephone general increase case, all of which had been heard by the Board. It was also clear from a review of these cases, including the two appeals to the Governor-General in Council, that the Company had been put in a position of which it did not approve, by circumstances entirely beyond its control.

From the evidence in the present proceedings, it was clear beyond question that Mr. Dale-Harris, for the Attorney General of the Province of British Columbia, approved expressly of what the Company had been doing prior to the promulgation of Order-in-Council P. C. 1958-602. In fact, he favoured the rescission of that Order-in-Council and the return of the Company to the practice it had been following formerly; that was, to claim maximum capital cost allowances, but to set up a reserve for income taxes deferred. He thought it was entirely proper to ask subscribers to contribute in their rates to the taxes that related to the profits being earned, and he considered that proper accounting required the accrual of full tax provisions, rather than a restriction to the amounts of tax actually payable.

Counsel said the Company accepted entirely Mr. Dale-Harris' thesis that deferred tax accounting was the proper and preferable approach, but that of course presumed the repeal of Order-in-Council P. C. 1958-602.

Mr. Dale-Harris' views on the problem, in the light of the continued existence of Order-in-Council P. C. 1958-602, were that a policy of "flow-through" accounting was proper, because it was wrong to permit a utility to circumvent a ruling that deferred income taxes should be borne by future subscribers in the years when they would actually become payable. Under cross-examination, Mr. Dale-Harris had agreed that this assumed a freedom on the part of the regulatory body to adopt the practice of "flow-through" accounting; his whole thesis was predicated on that assumption. He had, however, missed a most important part of the history of this matter, which was contained in the Press Release of November 27, 1958, which accompanied Order-in-Council P. C. 1958-1625 dismissing the appeal against the Board's decision not to interfere with the Bell Telephone Company's decision to pay income taxes on the basis of recorded depreciation. That Press Release had said, inter alia: "Under the Income Tax law, the Company is free to follow either of the methods permitted..... the facts of this particular case are such that we believe the Board has reached the right decision and accordingly the appeal has been disallowed...."

In Counsel's view, the appellate body had spoken and had expressly approved of what the Board did in the Bell decision. Thus, the respondents by their actions had very effectively tied the hands of the Board, and had very effectively closed the door to further action being taken now. The problem was still there and the obvious solution to it was the repeal of Order-in-Council P.C. 1958-602. This had been so much accepted in the course of the recent, similar review of The Bell Telephone Company of Canada, that neither Counsel for the Municipalities, Mr. Carroll, nor any of the witnesses, had made any point of this capital cost allowance problem. Mr. Carroll had simply suggested that, if his assistance were required to obtain a repeal of the Order-in-Council, he would be happy to provide this if retained by his then client.

With respect to the question whether it would be possible to repeal Order-in-Council P. C. 1958-602 without raising the matter of Order-in-Council P. C. 1958-601 in respect of the railways on the same issue, Counsel said it was his understanding that this particular problem no longer affected the Canadian Pacific Railway Company, but in principle he could not see how one Order-in-Council could be dealt with without dealing with the other.

(13) *The Permissive Level of Earnings and the Basis for its Assessment :*

Counsel stated he would refer the Board to the Argument made by Mr. J. de Grandpre, Q. C., on behalf of The Bell Telephone Company of Canada during the recent, similar proceedings before the Board.* The cases cited by Mr. de Grandpre were the principal authorities bearing upon the question of the permissive level of earnings; they were the cases most often referred to and they set out the guiding principles. The five cases were as follows :

- (a) *Southwestern Bell Telephone Company v. Public Service Commission of Missouri*, 262 United States' Supreme Court Reports, (1923), page 276;
- (b) *Bluefield Waterworks & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 United States' Supreme Court Reports, (1923), page 679;
- (c) *Federal Power Commission v. Hope Natural Gas Co.*, 320 United States' Supreme Court Reports, (1944), page 591;
- (d) *Northwestern Utilities v. The City of Edmonton*, (1929) Supreme Court Reports, (Canada), page 186; and
- (e) *British Columbia Electric Co. v. Public Utilities Commission of British Columbia*, (1960) Supreme Court Reports, (Canada), page 837.

The *Bluefield* case, said Counsel, enunciated the comparable-earnings approach and the *Hope Natural Gas* case extended that to include the attraction-of-capital approach.

The following passage from the *Hope Natural Gas* case was cited, (commencing at page 603):

"The rate-making process under the Act, i.e., the fixing of just and reasonable rates, involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Co.* case that regulation does not ensure that the business shall produce net revenues. 315 U. S. page 590. But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also

* - See Transcript of Evidence, In Re Review of The Bell Telephone Company of Canada, Volume 19, pages 3791-3811.

for the capital costs of the business. These include service on the debt and dividends on the stock. Cf. *Chicago & Grand Trunk Ry. Co. v. Wellman*, 143 U. S. 339, 345-346. By that standard the return to the equity owners should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital."

The last two sentences of this citation, said Counsel, contained the two approaches followed by Dr. Nicholson.

In concluding his discussion of the jurisprudence on the guiding principles of utility regulation, Counsel referred the Board to the following two recent articles:

- (a) "The Determination of the Fair Return for Public Utilities," by A. B. Jackson, *Canadian Public Administration*, Volume 7, Part 3, September 1964; and
- (b) "Vitality of the Comparable Earnings Standard for Regulation of Utilities in a Growth Economy," by Harold Leventhal, *The Yale Law Journal*, Volume 74, Number 6, May 1965.

He did so, he said, principally because they contained fairly complete references to the various authorities, including regulatory decisions on these questions and references to the various Canadian provincial statutes concerned.

Counsel reiterated his opening statement to the Board that the Company was not an applicant to it for an increase in telephone rates. The Company was before the Board to review its expenses, revenues, and other matters referred to in the Board's Notice, and in particular the level of the Company's earnings for ratemaking purposes. Under such circumstances, it was appropriate to pose the following questions: what are current revenues and expenses?; what is the current capitalization of the Company?; and what are the Company's earnings at the present time? Having answered these questions, the next question was: how does one assess the reasonableness of the Company's current earnings level? The answer to this last question would establish a standard or basis by which the reasonableness of the Company's earnings at the present time could be assessed. Counsel stressed that the Company was dealing with here and now, with circumstances as it now found them, and it was upon that basis that its testimony was presented.

Dr. Nicholson's evidence was concerned with the provision of a basis upon which earnings might be assessed, and with the use of that basis to assess the current level of earnings. He had used both approaches referred to in the *Hope Natural Gas* case in making his assessment and he had treated those two approaches as being complementary. As to the foundation for most of the judicial

reviews by way of appeal from regulatory bodies in the United States, Counsel agreed that it consisted in the constitutional provision that any rate of return insufficient to meet the tests of comparable earnings and attraction of capital would be confiscatory. While Canada did not have a similar constitutional provision, Counsel was of the view that the principles derived from that provision of the American Constitution would be as applicable in ratemaking procedures in Canada as they were in the United States.

Dr. Nicholson had suggested that the following four criteria should form the cornerstone of regulatory philosophy: (a) rate stability; (b) incentives for corporate efficiency; (c) earnings comparable to companies having similar overall risk; and (d) the maintenance of credit standing and the integrity of existing invested capital, in order to attract capital at reasonable cost in a competitive money market. He had directed his testimony to the last two criteria which he had termed the comparable-earnings test and the attraction-of-capital test. Both tests or approaches, he had said, were naturally related and complementary, because they were really two different aspects of the same problem. While he had discussed each of the two approaches separately, he had used them in his final analysis as being complementary. In addition, he had used a range of earnings' levels as being a permissive level of earnings.

The approach to comparable earnings could be made either solely on an equity basis, or on a total-invested-capital basis. Dr. Nicholson had selected three groups of companies for his comparable-earnings test and had stated the criteria upon which he had selected these companies. His reason for choosing the period 1954-1964 was basically because it included a complete section of business cycles following the recovery from the post-war low at the end of 1963.

The conclusions drawn by Dr. Nicholson from the results of his comparisons were that the percentage growth of the Company did not in any way compare with the percentage growth figures for the other groups of companies; that, in order to maintain investor interest in the Company's shares, the Company would have to be enabled to compete at least with the average Canadian utility company, which in a broad sense could be said to be of comparable risk; and that the Company's common shareholders had done approximately as well as the average of any of the company groups, but not significantly better. Dr. Nicholson had also concluded that, since the risks of the Company were at least equal to the group of five telephone companies, or the group of utility companies, the permissive rate of earnings on average total capital should be a minimum of 6.335%, and tend towards the lower quartile of the industrial group, which was 7.150%. His final conclusion with respect to the comparable-earnings approach was that, if the permissive level of earnings were based on the comparable earnings of companies of similar risk, the historical earnings levels of British Columbia

Telephone Company should be assessed in relation to those of other Canadian telephone companies and in relation to the earnings of industrial companies that were not below the lower quartile of the industrial group. This meant that the overall risk of the Company was certainly not less than that of other Canadian telephone companies, nor less than that of the lowest quartile of the Canadian industrial companies. Therefore, a fair return should be permitted that would be within these limits.

Turning to a consideration of the attraction-of-capital approach, Counsel noted that Dr. Nicholson had said that the most formidable problem was not just the technique of measurement, but the very meaning of the cost of common-equity capital. While it was possible to express total invested capital either in terms of book value or market value, Dr. Nicholson had stated he had decided to use market values and to define the cost of attracting capital as a weighted average of the cost of each type of capital, the weights being the ratios of the market value of each source of capital to the market value of total capital. Using this approach, Dr. Nicholson had found that the cost rate for debt was 4.395%, compared with an embedded cost of 5.23%; the cost rate for preferred capital was 5.332%, compared with an historic cost of 5.30%; and the cost rate for common equity was the average rate demanded by the investor in the Company over a long period, which amounted to 12.430%. These cost rates were used by Dr. Nicholson in computing the total cost of attracting new capital under three different capital structures of high, average and low leverage. Under conditions of high leverage, the weighted average cost of capital was found to be 6.9727%; under conditions of average leverage, it was found to be 7.3137%; and under conditions of low leverage, it was found to be 7.7623%. Thus, Dr. Nicholson had concluded that the cost of attracting new capital to the Company was between 6.9727% and 7.7623%.

Dr. Nicholson's overall conclusions were derived both from the comparable-earnings approach and from the attraction-of-capital approach. He had said that judgment was essential to adjust for the differences between the two approaches, since one could not strictly apply the rates derived from market values to book values. However, in the case of British Columbia Telephone Company, a relatively large proportion of its invested capital had been acquired in the recent past and had obviously been seen by the market to have been invested wisely. Thus, the difference between book and market values over the past fourteen years had been very small on the average. Dr. Nicholson had therefore concluded that the level of permissive earnings for the Company should fall somewhere between the mid-point of the rate indicated by the comparable-earnings approach and the rate indicated by the capital-attraction approach which was most nearly geared to the actual and planned capital structure of the Company. Thus, in Dr. Nicholson's view, the range of permissive earnings related to total invested

capital should be between 6.5% and 7.25%. This latter range, said Dr. Nicholson, was arrived at by his judgment of the situation.

Counsel stated that the Company adopted the range of reasonableness developed by Dr. Nicholson, in the sense that its earnings at this point in time would be considered as reasonable. In essence, the submission of the Company was as follows:

"....that the earnings of the company at the present time are entering that range of reasonableness that has been proposed by Dr. Nicholson and that is discussed by Mr. Kennedy. We do not ask the Board, and in my respectful submission it would be unwise for the Board to make an express finding with respect to this particular zone of reasonableness. To do so would be to follow the course of the B. C. Electric case that went to the Supreme Court of Canada. We do not seek this type of finding from the Board.

"What we do seek from the Board are basically two things. First of all, a finding that it would be appropriate in assessing the reasonableness of the company's earnings level to do so by reference to the return on total invested capital, and secondly, we suggest that the finding of the Board arising out of these proceedings should be on the evidence before it that the company's earnings at the present time are reasonable."

"....But we do not advocate that the Board should, as a result of these proceedings, come down with a firm acceptance or approval of a specific return, a specific range of return, or a specific amount of annual addition to surplus, if the Board declines to accept our suggestion that we move to a return on total invested capital as a basis for assessing earnings.

"What we do suggest is it is proper for the Board to consider at this point in time the earnings of the company at the present time, using the methods that we suggest, and reach a conclusion with respect to the reasonableness of those earnings."

".....I have a long memory of what followed the Supreme Court of Canada decision.....And it is precisely because of that decision and the results that flowed from the Supreme Court decision that the company does not take the position that the Board now should fix a specific range of return or do other than simply assess the earnings as they are at the present time, and pronounce upon their reasonableness."

Reference was made to Mr. Joseph's criticisms of the capital-attraction approach used by Dr. Nicholson. Mr. Joseph had said there was an obvious circularity in the proposition which relied upon the rate of return earned in the

past to determine the permissible rate of return for the future, and that this circularity made the proposal invalid as a regulatory tool. In the opinion of Counsel, Dr. Nicholson had already provided an answer to this in his evidence-in-chief. While he had conceded that the future could not be predicted with accuracy, he had also said that one was forced to use those guides that seemed most suitable. Here, Dr. Nicholson had felt that the long-term average was perhaps the best guide, because he believed that it would require extremely large changes in the immediate future to convince the investor that average conditions over a reasonably long past period would not be continued. Therefore, if the future could be represented by the past, it would be necessary for the Company to be permitted to earn between 6.9727% and 7.7623% on the average, in order to attract new capital. But Dr. Nicholson, of course, had not used only the attraction-of-capital approach; he had used that approach together with the comparable-earnings approach. Although the comparable-earnings approach was based on book values, and the attraction-of-capital approach was based on market values, they could be seen as complementary to one another. The market value of capital at the time of its acquisition was essentially equal to book value at that time. Over time, differences in valuation between book and market would occur, mainly because of the way investors viewed the Company in relation to other companies, and because book values were not constantly adjusted to reflect inflationary forces. Therefore judgment was essential to adjust for differences between the two approaches, since the rates derived from market values could not be strictly applied to book values. The difference between book and market values of the Company's capital over the past fourteen years had been very small on the average. therefore appeared to Dr. Nicholson that the Company's permissive earnings level should fall somewhere between the mid-point rate indicated by the comparable-earnings approach and the rate indicated by the capital-attraction approach most nearly geared to the actual and planned capital structure of the Company.

It was thus clear to Counsel that Dr. Nicholson had avoided the problem of circularity inherent in the use of market values by taking the two approaches and making one the complement of the other, and by applying judgment to reach a conclusion as to what the range of earnings should be. Since Mr. Joseph's criticisms applied to only one of the methods used, Counsel suggested that his evidence was of very little value. Dr. Nicholson had used the two complementary approaches as a check and a guide, the one against the other; it was therefore an exercise in futility to take one without the other. Mr. Joseph had conceded that judgment had to be applied to the use of earnings-price ratios, and Dr. Nicholson had also stated at the outset that there was no mechanistic approach that would provide an answer to what a permissive level of earnings should be. Dr. Nicholson had in fact applied judgment to the use of his two approaches.

There was, Counsel argued, always a danger of circular argument in any approach taken to the question of assessment of a permissive level of earnings. There were, however, some restraining influences to the possibility of circularity arising in Dr. Nicholson's approach. An upward change in growth rate was not necessarily followed by a rise in the cost of attracting capital. If the growth rate of earnings increased, the market yield would drop, (assuming a continuance of the dividend rate), and this in itself would be an inhibiting factor. In other words, if the return were considered as comprising a pure interest return plus a risk factor, the greater growth decreased the risk and thus reduced the cost of common equity. In addition, the Company's securities did not stand by themselves; they were traded in the market with all other securities and the market requirement, looked at over a long period of time in the way Dr. Nicholson had done, would give the best indication of historic cost.

The second criticism made by Mr. Joseph related to the discounted-yield method used by Dr. Nicholson in his capital-attraction approach. In his view, the trend of earnings-price ratios was more significant than discounted yields, if market prices were to enter into a determination of a fair rate of return. Mr. Joseph had developed earnings-price ratios and had compared such ratios with the 12.430% average cost of common equity capital computed by Dr. Nicholson. But this comparison was clearly inapt, because the equity component was only one of the elements taken into consideration by Dr. Nicholson in arriving at the overall cost of attracting capital. Mr. Joseph had also stated that neither earnings-price ratios nor discounted yields could be used to determine a fair rate of return on common equity without the exercise of a very considerable amount of judgment, but again Dr. Nicholson had clearly met this requirement. In Counsel's opinion, Dr. Nicholson's capital-attraction approach, when used in conjunction with the comparable-earnings approach, was demonstrably a proper and reasonable method in developing a basis to assess the reasonableness of the Company's earnings at the present time. Finally, Counsel noted that bond yields often exceeded earnings-price ratios.

Mr. Joseph's third criticism was that Dr. Nicholson had applied his yield to a capital structure based on the market values of the Company's securities, with the result that his capital structures showed a greater percentage of equity than was carried on the Company's books. Counsel suggested that there was a confusion here as to what Dr. Nicholson had done. Clearly, Dr. Nicholson had developed two independent approaches and had derived from them a range of earnings' levels which he deemed in his judgment to be appropriate. Apparently, Mr. Joseph had thought that the results shown in Exhibit No. BC65-F-11, (see BOARD TABLE VIII), were going to be applied directly without any interpretive process, but Dr. Nicholson had not done that.

Counsel pointed out that the high-leverage example in Exhibit No. BC65-F-11, (see BOARD TABLE VIII), was in fact very close to the actual capital structure of the Company at the present time. This exhibit really demonstrated what could happen under various capital structures, but Dr. Nicholson had not concluded that those were the ranges that should be used. On the contrary, Dr. Nicholson had said that when one looked at the comparative-earnings approach in conjunction with the capital-attraction approach, one could see what range of earnings should be developed for the Company's present capital structure.

Mr. Joseph, said Counsel, had made no mention of the comparative-earnings approach and had made no mention whatsoever of the complementary nature of Dr. Nicholson's two approaches. Counsel suggested that Dr. Nicholson's evidence overall had provided the Board with a basis upon which the earnings of the Company might be assessed. Using that basis, it was clear that the present earnings of the Company had just approached the zone of reasonableness suggested by Dr. Nicholson.

Reference was made to the comparisons made by Mr. Kennedy between the Company and other Canadian telephone companies, (see BOARD TABLE VI). Such comparisons showed that, with the exception of The Bell Telephone Company of Canada, the Company's return on average total invested capital was below that of the other companies in virtually every instance. As to accumulated retained earnings in relation to total invested capital, it was clear that the Company had for a long time been behind all the others, and still was. The position with respect to total dividend requirements, expressed as a percentage of accumulated retained earnings, was that the other companies fell considerably below the figures for the Company and for Bell Telephone. Times long-term debt interest earned was 2.51 for the Company and 3.28 for Bell Telephone, the difference being due to differences in capital structure.

Turning to the Company's current results, Counsel noted that the percentage relationship between the annual addition to surplus allowed by the Board and average invested capital amounted to 0.95% at the time of the Board's 1950 Judgment; to 0.95% at the time of the March 1953 Judgment; and to 0.87% at the time of the July 1958 Judgment. Thus, one could see the continuity of these relationships in the various Judgments of the Board. The Company's financial results showed that it had hewed very closely to the allowance granted by the Board in 1958, because its annual addition to surplus as a percentage of average invested capital had averaged 0.70% over the period 1959-1964, (a 0.87% average, if the additional dividends are excluded). Its rate of return on average invested capital had increased from 5.93% to 6.37% over the same period.

In his testimony on behalf of the Attorney General, Mr. Dale-Harris had spoken of the desirability of establishing a ratio that might be used as a guideline. This ratio might express dividends as a percentage of per-share equity, thus providing a simple means of determining what might be taken to be an acceptable periodic increase; the same might well apply to the annual addition to surplus as well. He had said he thought it would be a useful and sensible yardstick to apply, and he had agreed that one suitable ratio could be derived from the relationship between average common equity and earnings available for common equity. Using this latter ratio, Counsel said that the relationship in the Board's 1958 Judgment worked out to 9.44%. If that percentage were applied to average common equity outstanding during the period 1959-1964, it was quite apparent that at no time had the Company earned up to that ratio.

Counsel suggested from all this evidence that Mr. Kennedy had drawn the correct conclusion in his testimony when he had said that the Board should provide some measure of flexibility in assessing the permissive level of earnings. On the Company's suggested basis of measurement, it appeared that earnings would be slightly ahead of a 6½% return on average total invested capital in 1965. In Mr. Kennedy's judgment, such earnings would be at the lower end of a zone of reasonableness. The effect of Mr. Brown's evidence under cross-examination was that the Company would have no difficulty in financing its new capital requirements, provided the current level of earnings on a ratio basis could be maintained, but he also expressed the hope that this ratio would continue to show the sort of improvement it had been showing over recent years.

Thus far, said Counsel, he had dealt with the level of earnings under three approaches: (a) Dr. Nicholson's approach; (b) Comparisons with other telephone companies; and (c) Comparisons with the levels established by the Board in the past. He now proposed to consider the approach which the Company recommends should be followed in assessing the reasonableness of its earnings. A substantial portion of the Company's submission of April 12, 1965 was devoted to this, beginning at the bottom of page 17 and running through to page 24. Mr. Kennedy had also dealt with this subject in his testimony when he had recommended that the Company's level of earnings be measured by relating such earnings to the total capital invested in the Company. His reasons for this were that the Board's previous method of expressing the permissive level of earnings, in the form of a statement of the actual sums required to discharge its then existing financial obligations, conveyed a sense of rigidity that in all probability was never intended, but nevertheless might have imposed restrictions which would impede the Company's growth. Any literal interpretation of this method would have rendered the Company's common stock less attractive than the facts warranted and carried with it the possible connotation that the Company would not reap any benefit from a realignment of its outstanding securities, or from normal growth expectations via investment of retained earnings.

Mr. Brown had also dealt with this subject when he had stated that there was a basic conflict of interest in the fiscal-requirements method between subscribers and shareholders that would be resolved by the adoption of a method of assessing earnings in relation to total invested capital. Under this latter method, the Company's management would have an incentive to get as high a price for its shares as possible, and this would lower the total earnings requirement. It would also prevent conflict being focussed on the price at which shares were issued or on rights' issues.

Counsel said that in his estimation the measure of confusion which existed with respect to the fiscal-requirements method could be discerned in the testimony of Mr. Dale-Harris. In discussing the permissive level of earnings and the expenses of the Company, Mr. Dale-Harris had added up the extra expense of additional dividends and the annual additions to surplus in excess of \$1.5 million, leaving the impression that he was suggesting the dividend rate and the annual addition to surplus should have remained constant. Subsequently he qualified this by suggesting a ratio approach in which there would be an allowance for growth. But then he appeared to Counsel to abandon the ratio approach, in that he had clearly suggested the Company could not either add to surplus each year within the limits of that ratio, or pay dividends within the limits of that ratio, without the concurrence of the Board. In the light of this, what would be the value of the ratio said Counsel.

(14) Conclusion:

On the question of dividends and the annual addition to surplus, it had always been the understanding of Counsel that the regulatory body regulated and the management of the Company managed, the task of the regulatory body being to assess the results of management and to approve or disapprove of them after management had acted. The Board itself had spoken of managerial discretion, and had said on many occasions it would not interfere with such discretion, provided it had been properly exercised.

Counsel had never heard it suggested by anyone, except Mr. Dale-Harris in the present proceedings, that any regulated company should submit its financial statements to the regulatory body for approval before they were issued to the shareholders. Yet this was precisely the suggestion of Mr. Dale-Harris when he had said annual additions to surplus ought not to be changed without the approval of the Board. Mr. Dale-Harris was equally unfair in his approach to the matter of dividends, the declaration of which was surely a function of management. Counsel wondered whether Mr. Dale-Harris would also suggest, in cases where companies were regulated on the basis of an allowed return on a rate base or invested capital, that the disposition of that return should be submitted to the regulatory body before any disposition was made. Dividends were only

one of the uses to which the return was put. Counsel was not suggesting that such matters should not be reviewed by the regulatory body at the appropriate times; this was the very task of the regulatory body. But the suggestion that a regulated utility should seek the approval of the regulatory board before making a dividend payment or completing its financial statements was against the fundamental principles of regulatory practice.

The foregoing, said Counsel, was only an example of some of the clouded thinking that existed with respect to the financial-requirements approach to regulation; it was for this reason, and for the reasons advanced by Mr. Brown and Mr. Kennedy, that it would be desirable for the Board to assess the level of the Company's earnings in relation to total invested capital. The Company was not alone in urging this approach; in the Bell proceedings, both The Bell Telephone Company of Canada and Counsel for the Municipalities, Mr. Carroll, had agreed that assessment of earnings by relation to total invested capital would be a proper approach.

Counsel concluded by stating that he assumed the Board would review the evidence presented to it and would reach a conclusion with respect to the level of earnings now enjoyed by the Company and would promulgate its finding through a Judgment. The Company, however, did not seek a finding from the Board that any definitive amount should be added to surplus, (if the Board should decide to adopt that procedure), or any definitive rate of return, or any definitive range of levels of return, should be pronounced by the Board as being appropriate far into the future. The Company did suggest that the levels developed by Dr. Nicholson should be used by the Board in assessing the reasonableness of the Company's earnings at the present time.

(b) On behalf of the British Columbia Federation of Labour:

The Federation's argument was presented by Mr. E. P. O'Neal its Secretary Treasurer.

(1) Payments to Affiliated Companies:

Mr. O'Neal said the Federation was concerned with the revenue of the Company which was paid out to affiliated companies owned and controlled by the parent holding company, General Telephone and Electronics Corporation of New York. This did not include service contracts with Anglo-Canadian Telephone Company or General Telephone Service Corporation. The holding company had so arranged its corporate structure as to take the profits of these companies away from the scrutiny of the Board, and thus such profits could not be considered by the Board in setting a fair permissive profit level, a factor which in itself made the attempt to fix a fair profit no more than a charade.

Reference was also made to the possibility of price fixing or price administration by affiliates. It might therefore be well to investigate and see if the law was being breached, since Exhibit No. BC65-C-14 showed some identical prices from different companies.

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(2) Rights' Issues of Common Shares:

On eight occasions between 1953 and 1965, the Company had raised common-share capital by issuing rights to shareholders to purchase additional shares at less than market price, or to sell such rights. Such rights issues had conferred an inordinate advantage upon the principal parent of the Company, Anglo-Canadian Telephone Company. In this connection, the Federation considered that the public should have the same rights as the parent company had on common shares. Anglo-Canadian had a 50.14% interest in the equity capital of the Company, but had not subscribed to the less-remunerative preferred or preference issues of the Company. The rights' issues were an example of the large capital gain conferred on Anglo-Canadian and General Telephone, which in 1962 had amounted to \$3.8 million. To say that this kind of bonus protected their 50% controlling interest in the Company was no answer to the general public who should have been equally able to subscribe for new shares at the rights' price.

(3) The Permissive Level of Earnings:

Mr. O'Neal asserted that the Board's efforts to control the earnings of the Company and to protect the subscribers had been ineffective. Although the Board's Judgment of December 24, 1958 had concluded that "a proper permissive annual surplus for the Applicant under present circumstances is \$1,500,000," the Company had in two steps increased its dividend payments from \$2.00 to \$2.40 per share, and the permissive surplus of \$1,500,000 had risen by almost 100% to a 1964 figure of \$2,932,000. During the past seven years, net profit had risen from \$6.9 million to \$19.7 million, but operating expenses as a percentage of income had declined. Automation had cut the payroll portion of expenses and the productivity of employed labour had been increasing faster than wage rates, but none of this prosperity had been passed on to the public in lower rates. The Board's 1958 Judgments had been breached in intent, if not in the letter, without intervention by the Board, except for regular approvals of rights' issues. The Federation therefore felt that future formulae of control would prove equally futile.

The Federation expressed the view that jurisdiction over the Company should be with the Province of British Columbia and that the Board should recommend the restoration of Provincial jurisdiction.

Mr. O'Neal noted that none of the proposals of the Company referred to a fair return on shareholders' investment; they referred to a fair return on total invested capital, which included bonded- and other indebtedness. The shareholders' return could not be arrived at this way and, on the Company's own calculations, it was in excess of 12% per annum, the figure calculated by Dr. Nicholson. In the Federation's opinion, the only effective control of the Company would be a rate reduction, with close scrutiny to ensure that the increasing benefits of automation were shared in the future by subscribers and employees.

(c) On behalf of the Attorney General of the Province of British Columbia:

(1) The Purpose of the Enquiry and Regulatory Philosophy:

In the view of Counsel for the Attorney General of the Province of British Columbia, Mr. C. W. Brazier, Q. C., the purpose of the Board's enquiry was as follows. The Company was called upon to give an account of its stewardship over the past seven years since the last rate hearing in 1958, to show that it had performed the duties which it owed to the public in managing an important public service with monopoly privileges. In particular, the Company was required to show: (a) that it had operated with maximum economy and efficiency and had provided the highest possible level of service to the public; (b) that it had received no more than a fair return and that the additional rates paid to it by the public since 1958 had been warranted; and (c) that both users and owners of the monopoly had received, and would receive in the future, a fair share of the substantial savings from technological progress and the increasing business of the Company.

As to the suggestion that some matters dealt with by the Attorney General and his witnesses during the course of the hearing had been the subject of previous decisions of the Board, and ought to be considered as closed in the present proceedings, Counsel stated he could not agree that precedent should play a dominant role. The very purpose of the Board in directing the current review was to open up for reconsideration all matters relevant to the subjects listed in its Notice, and to throw open to review and contention all matters related to the performance of the Company, as well as the whole philosophy of regulation as applied to the Company. Where the Board had made a finding in past cases, it had done so for the particular case and had specifically said it was for that case and at that time; it certainly did not intend that the subject should not be reviewed or reopened at a subsequent date.

Counsel said his appearance on behalf of the Attorney General was not for the purpose of attacking the Company. While considerable praise could be offered to the officers of the Company for the manner in which they had carried out their responsibilities in past years, this did not prohibit him from suggesting that some of the basic corporate philosophy of the Company was not in keeping with the best interests of subscribers. His role was to assist the Board in the public interest to ensure that the facts were brought out and that the Company discharged the onus imposed upon it.

The whole basic regulatory philosophy stemmed from two decisions of the Supreme Court of the United States which had been followed and quoted with approval by Canadian courts, but the views expressed in those decisions were in fact intended to be a charter of protection to the user of the utility. Since their

pronouncement, however, it appeared to Counsel that their effect had been so whittled away by successive attacks of utility counsel that they were now considered by public utilities, and by some regulatory authorities, to be a charter of protection for the public utility. Thus the whole tenor of these judgments had been adroitly reversed in the intervening years.

The first case which had been cited by Counsel for the Company was *Bluefield Waterworks & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 United States' Supreme Court Reports, (1923), page 679. A part of that judgment which was consistently quoted by counsel for the utilities was the following, commencing on page 692:

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to ensure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally."

Counsel emphasized that the court had said "The return should be reasonably sufficient"; it had not said "absolutely sufficient". Additionally, the utility only had this right to an adequate and reasonably sufficient return, upon a proper discharge of its public duties.

The second leading case was *Federal Power Commission v. Hope Natural Gas Co.*, 320 United States' Supreme Court Reports, (1944), page 591. The familiar quotation from that Judgment started at page 603 and was the quotation made by Counsel for the Company. Counsel for the Attorney General noted that the court had said that "regulation does not ensure that the business shall produce net revenues," but it had gone on to talk about "the investor interest." The court, said Counsel, was setting forth the considerations from the point of view of the investor and the Company, which were not the considerations affecting the user of its services. Counsel for the utilities, however, had taken the test from the investor's point of view and had said it was also a test from the consumer's point of view. This, in the opinion of Counsel for the Attorney General, was never the intention of either of these United States' Supreme Court cases.

There had been such a mixing of the subscriber's interest with the company's interest that a division of these interests was no longer indicated in current regulatory judgments.

These two United States' Supreme Court cases, said Counsel, indicated the tests which the court had set were the very maximum. The Company could earn a fair return, if it was efficient, and that was all it was to get: an adequate, reasonable return. To say that the Company was entitled to a return for efficiency was absolutely contrary to the principle expressed in these judgments. It was only entitled to a fair rate of return if it was efficient, and beyond that it was not entitled to anything. Counsel thought it ought to be remembered that the *Bluefield* case in particular had been decided in an era when regulation had been much stricter than it had been in the past years.

(2) The Company's Revenues and its Economic Review:

In each of the years under review, by far the most significant fact was that the Company's revenues had increased very substantially over the previous year. The Company, however, had been at pains to emphasize to the Board that it was fearful it might suffer a change in fortune in the future, attributing its sense of insecurity to three factors: (a) the possibility that Canada might shortly suffer a recession; (b) the fact that British Columbia had a "volatile" economy; and (c) the increasing degree to which its revenues were derived from services it believes the public might be willing to dispense with in hard times.

As to the possibility of a general recession, the Board might well wonder how seriously Mr. Phillips regarded this prediction. Anything was a possibility, so far as economic forecasting was concerned, but Mr. Phillips had referred to "a distinct possibility" and this implied something much closer to a probability, or at least a fairly firm prediction. Mr. Meredith had pointed out in this connection that economists frequently suffered from an occupational ailment of predicting slow-downs or recessions at dates which then move further and further ahead as time passes. Counsel submitted that there was no ground to suppose that either the levelling-off which the Company anticipated in its submission to the Board of April 12, 1965, or the recession which Mr. Phillips regarded as a distinct possibility, was any more likely to occur in 1966 or 1967 than in any of the next 25 or 30 years. Mr. Urquhart, speaking of the Company's plans for expansion over the next few years, had said they did not include any provision for a recession. The Board could therefore safely dismiss from its mind any fears that might be aroused by forebodings of a Canadian set-back, or what might be even less likely, a set-back in British Columbia within the period of time to which the Board's attention had been drawn.

With respect to the Company's claim to have found "volatility" in the Provincial economy, Counsel suggested this would appear to be a recent discovery since it did not appear in the Company's twenty-four page submission of April 12, 1965. The Company had furnished two exhibits in connection with this claim: (a) Exhibit No. BC65-A-2, "Canadian Corporate Profits"; and (b) Exhibit No. BC-65-12, "Net Income Available for Ordinary - British Columbia Telephone Company; Gross Provincial Product - British Columbia". Exhibit No. BC65-A-12 showed there had been an annual growth both in the gross provincial product and in the net income available for ordinary shareholders in every year since the last 1958 hearing, even when 1959 is ignored because of the increased rates approved by the Board in the previous year. If Canadian corporate profits in Exhibit No. BC65-A-2 were compared with the Company's net income available for ordinary shareholders in Exhibit No. BC65-A-12, eliminating the year 1959, it was clear that the so-called "volatility" of the British Columbia economy had not prevented the Company from achieving a much more satisfactory profit growth record than Canadian corporations generally. In addition, the Company's Exhibit No. BC65-A-4, "Capital Expenditures", plainly demonstrated that the Province's experience in this area had been very similar to that of Canada as a whole over the period since 1958.

Counsel submitted that the Company's Exhibit No. BC65-A-5 on unemployment was totally irrelevant to the Provincial economy as it affected the Company. It showed rates of unemployment without reference to population changes or to the seasonal nature of unemployment in British Columbia. It gave no indication of the growth in the number of employed persons in the Province, a statistic which was obviously of major significance in assessing the rate of growth in demand for the Company's services. By contrast, Mr. Meredith's Exhibit No. AG-4 showed that employment in British Columbia had grown since 1958 at a rate which compared well with any other part of Canada. In this connection, Counsel noted that Mr. Phillips had given a rather unusual definition of the word "volatile" when he had said that a series of figures could be classified as "volatile" if it changed to a greater degree than the economy as a whole. This definition of "volatility" could only be applied to employment in the Province and the Company ought to find satisfaction in the fact that recorded growth in provincial employment had been far greater in British Columbia than in other provinces or Canada as a whole.

In its Exhibit No. BC65-A-6, the Company had tried to show that the economy of British Columbia was particularly "volatile" because of its reliance on export markets and because of a higher than average record of construction expenditures as a percentage of gross provincial product. Mr. Meredith, however, had pointed out that overseas markets for the Province's products were often

captive markets and many current projects are the result of joint partnerships with a foreign organization. As to construction expenditures, he had shown that the Company had made an error which seriously exaggerated the difference between Canada and British Columbia and comparison of the true figures had shown there was little real difference. Mr. Meredith had also taken issue with Mr. Phillips' statement that the bunching of substantial construction expenditures over the next two years would probably lead to a let-down in the late sixties; on the contrary, it was more likely there would be a continuation of the present upward trend in capital expenditures over the next five years at least.

Counsel asked the Board to examine in particular Mr. Meredith's Exhibits Nos. AG-1 to AG-7. The use of the semi-logarithmic graph put the comparisons in better perspective than other types of graph and indicated on a proper scale the actual relationships between the two indices being compared. It was very obvious from Mr. Meredith's five graphs that British Columbia had generally followed along the lines of the rest of Canada and that its record had been better than that of most other provinces. Mr. Meredith's two population tables placed in proper perspective the Company's suggestions that development in the northern areas of the Province was likely to introduce an increased risk factor into its operations. The vast bulk of Provincial population growth since 1951 had occurred in already developed centres and there was unlikely to be any material alteration in the distribution of population in the next decade. As to the Company's suggestion that development of the north country was introducing an element of instability into the Provincial economy, and thus a new risk for the Company, Mr. Meredith had stated that the highly-capitalized projects now taking place in this region would result in a more stable community in which the Company could carry on its operations.

With respect to the alleged vulnerability of the Company's revenues, Counsel noted that Mr. Carlile had talked in terms of three elements: (a) toll revenues; (b) individual-line service; and (c) residence extensions. The Company's Exhibit No. BC65-G-1 indicated that no decrease in toll revenues had occurred during the period. If the Company's Exhibit No. BC65-A-8 was examined, it would be seen that, over the period 1954-1964, only in 1958, 1959 and 1960 were the toll revenues a lesser percentage of total operating revenues, yet Exhibit No. BC65-G-1 showed that there was an absolute increase in toll revenues in those same three years. Exhibit No. BC65-A-11 compared the rate of change in toll revenues with the rate of change in Gross Provincial Product, each rate of change being on a compound basis, and it was evident that, without exception, the rate of change in toll revenue had been greater than the rate of change in Gross Provincial Product. There was therefore nothing in the Company's past history which would warrant the conclusions of the Company's witnesses as to the

future vulnerability of toll revenues. No evidence had been presented as to the precise degree of economic misfortune the Company believed would cause a reduction in toll revenues, and the same general comments could apply to the other two sources of revenue, individual-line service and residence extensions.

Counsel submitted in conclusion that there would have to be a depression of the proportion Canada had not seen since 1929-1930 to cause reductions in revenues from the sources termed vulnerable and present-day common thought was that we might never experience such a severe depression again. There was no justification for the vague fears of the Company as to the vulnerability of its revenue sources and the evidence before the Board plainly justified the expectation that the Company's revenues would continue their past substantial increases into the foreseeable future. The revenue increases achieved, or expected to be achieved, together with the growing extent to which they were derived from automated services in which economies of scale were increasingly to be expected, indicated that the subscriber was entitled to look forward to rate relief in the future.

(3) Payments to Associated Companies:

It was submitted that payments by the Company to associated companies was one of six specific areas of expense in connection with which the Company had failed to meet the onus of satisfying the Board that it had carried out its duties to operate with maximum economy and at the lowest possible cost. The other five areas of expense were: pensions, share-issue expense, preferred-share dividends, charitable contributions, depreciation, and income tax.

Counsel noted that Counsel for the Company had dealt at some length with the three special contracts and the payments made thereunder. These were all dealings with associated companies. He could not overlook the fact that Anglo-Canadian Telephone Company owned a controlling interest in British Columbia Telephone Company and that the General Telephone and Electronics Corporation of New York now held 100% of the common shares of Anglo-Canadian, which meant that General Telephone and Electronics Corporation in fact controlled British Columbia Telephone Company. The total payments made under the three special contracts to fellow members of the General Telephone family, during the six year period 1959 to 1964, exceeded \$120 million and averaged more than \$20 million per year. If such payments were reasonable, the Company had it within its power to prove this by making available to the Board the financial statements of the companies concerned. It had chosen not to do so and the Board was asked in many cases to find that the payments made were reasonable on no other evidence than the statements of the Company's officers that they did not think they could do better elsewhere.

It was true, said Counsel, that he had called no evidence to show that these payments to associated companies were unreasonable. Actually, it would appear that the terms of the three contracts had been modified to such an extent over the years that they might today be quite proper and not an undue burden on telephone users. At the same time, so long as the present corporate structure existed, it was essential that the public be assured that these were the very best contracts that could be obtained and that this was the best way of carrying out this phase of the Company's business. He did not think that the Company needed to go into the costs of manufacture or provision of service, but it should be able to show that, on the business it did with these associates, such associates were not making more than a fair return; that was, a return not much greater than that allowed to a utility. While it might be difficult for the Board to make the required calculations and segregations, he did not think it was beyond the bounds of human ingenuity to determine a reasonable method of compensation to telephone subscribers if the Board found excessive profits were being made by some of these associates.

It had, said Counsel, always been the position of the law that, where transactions did not take place at arm's length, the onus was on parties to the transaction to justify it. In this connection, Mr. Dale-Harris had not been passing judgment when he had said he had seen nothing to indicate that any of the payments made were excessive, because he did not feel he was in a position to do so. The profits of the affiliates were not available to him and such information had not been made available to the Board.

Counsel said he would like to refer to two United States' decisions in connection with this matter: (a) *General Telephone Company of Upstate New York Inc. v. James A. Lundy et al., Constituting New York Public Service Commission*, 57 *Public Utilities Reports*, 3rd. Series, page 328; and (b) *The California Public Utilities Commission re The Pacific Telephone and Telegraph Company*, 53 *Public Utilities Reports*, 3rd. Series, page 513.

The decision of the Supreme Court-Appellate Division, Third Judicial Department, in the first case was dated February 2, 1965 and was quoted by Counsel in full, as follows:

"The determinative issue presented upon this review of a telephone rate case is whether the Public Service Commission, in exercising its conceded right to determine the reasonableness of prices paid by petitioner to affiliates for equipment, supplies and services, properly rested its determination of unreasonableness upon its finding that the affiliates' earnings were in each case excessive, when measured by the resulting rate of return upon book equity. Petitioner contends that the reasonableness of the prices paid by it should have been determined upon its proof that the prices charged

by the affiliates were the same as, or less than those set by competing manufacturers and the same as, or less than the prices that the affiliates charged nonaffiliated telephone companies. Petitioner contends, further, that even if the commission had power to measure the reasonableness of the prices paid by the affiliates' earnings, it erred in basing the rates of return, found by it to be excessive, upon historical book equity rather than upon the cost of the acquisition of the affiliates by the holding company concerned.

"Petitioner sought to increase local service telephone rates in its operating territory in the State of New York by amounts calculated to yield an increase of \$961,200 in its annual gross operating revenues. The respondent commission granted increases of \$340,000 which it found would be sufficient to effect a yield of 6.5% on petitioner's net investment. Of the \$621,200 increases denied, petitioner challenges the propriety of the disallowance of approximately \$100,000, which is the aggregate of the commission's adjustments on account of transactions involving purchases by petitioner from its so-called affiliates of equipment, supplies and services. The essence of the commission's finding is that petitioner failed to sustain the burden of proving that the prices paid were reasonable, and that the showing of the affiliates' 'excessive' profits indicates that the prices were unreasonably and unnecessarily high. The commission said: 'Transactions between a regulated public utility and its affiliates, because of the lack of arm's length bargaining, must be the subject of close scrutiny by the Commission. If advantage has been taken of the affiliated relationship to the detriment of the utility and its subscribers, it would be neither just nor reasonable to permit the parent company to profit therefrom through the utility's rates, and this Commission has full power to prevent that result.' Petitioner's brief recognizes that 'transactions between affiliates are subject to scrutiny by regulatory agencies to see whether any improper advantage has been taken of the affiliated relationship'; and seeks to demonstrate the reasonableness of the prices paid.

"Petitioner's common stock is owned by General Telephone and Electronics Corporation (G T & E), a holding company, with which are also affiliated, in the so-called General System, more than 30 domestic telephone operating companies, serving nearly 5,000,000 telephones in 32 States, including nearly 60,000 telephones in up-State New York. The parent, G T & E, owns all of the voting stock of Automatic Electric Company, a manufacturer of telephone equipment; and the latter company's wholly-owned sales subsidiary, Automatic Electric Sales Corporation (the two being collectively referred to as AE), sells that equipment and, in addition,

distributes telephone supplies manufactured by nonaffiliated companies. The so-called Leich companies, a manufacturing company and its sales subsidiary, were once wholly-owned subsidiaries of GT&E and later merged with AE. Another affiliate, General Telephone Directory Company, owned by G T & E, compiles and prints telephone directories and sells yellow page advertising therein.

"Sales by AE to telephone companies of the General System have constituted 38 to 45% of its total sales and have represented 53% of its sales to domestic telephone companies. The Leich companies, before their 1962 merger with AE, made 80% of their total sales to General System affiliates. Affiliates in the System accounted, also, for about 80% of the business of the Directory Company, which is paid by each telephone company for publishing its telephone directory, as well as for selling and other services, a percentage of the revenue from sales of yellow page advertising, which the Directory Company solicits in the name of the telephone company. G T & E subsidiaries purchased at least 90% of their equipment and supplies from the G T & E manufacturing and sales affiliates pursuant to a 'general understanding', in the words of petitioner's economist, 'that these companies were part of a family and would try to deal with each other when they could'; and the president of AE agreed that it was the policy of G T & E system to have its domestic telephone companies purchase their requirements of equipment and supplies from AE and Leich 'when possible' and when 'suitable' equipment was available from them.

"AE, since affiliating with the General System, has earned on that portion of its invested capital represented by common stock and surplus over 19% in its two least favourable years, over 30% in its best two years, and from 25 to 28% in other years. On the same basis of computation, the earnings of the Leich companies, while affiliated, and prior to their 1962 merger in AE, ranged from over 28% to highs of over 50% in two years, the weighted average for the period being 43%. The Directory Company's return on common equity was 36% in 1961 and 39% in 1962; and although the percentage of advertising revenues retained by the telephone companies, affiliated and nonaffiliated, increased fairly steadily from 32.3% in 1950 to 45.2% in 1962, the Directory Company's net income percentage remained about the same. The prices paid to affiliates were reflected in petitioner's rate base, in its expenses and (with respect to directory advertising revenues) in its miscellaneous operating revenues; and, on the basis of the affiliates' earnings figures, the commission made adjustments within these three categories so as to reduce the profits of affiliates included in them to an estimated level of 12% on the affiliates' common equity. As has been noted, these adjustments had the effect of disallowing about \$100,000 of petitioner's proposed increase in gross revenues.

"We are unable to say that the commission acted arbitrarily or unreasonably in finding that these very high profits indicated highly inflated prices which could have been materially reduced. In this situation, the commission was not, of course, constrained to give controlling effect to the proof that the prices paid were no greater than those charged by the affiliates to unaffiliated companies or those which other manufacturing and sales companies charged their customers. As was said of a demonstration of comparative prices in another case: 'All of these facts. . . . would be far more persuasive with respect to the propriety of the rate if the parties were independent of each other and dealing at arms' length. Where, however, they constitute but a single interest, and involve the embarkation of the total capital in what is in effect one enterprise the elements of double profit and of the reasonableness of inter-company charges must necessarily be the subject of inquiry and scrutiny before the question as to the lawfulness of the retail rate based thereon can be satisfactorily answered.' (*Western Distr. Co. v. Public Serv. Comm. of Kansas*, 285 U. S. 119, 126.) Neither can we account as ill-conceived or unsubstantial the factors found by the commission to be contributory to the pricing—that, realistically, the operating company, and its suppliers, all wholly-owned subsidiaries of the holding company are, in effect, different departments of one business enterprise, so that there exists no incentive to real bargaining; and that despite the suppliers' preferred position in the integrated system, with sales of large percentages of their production in effect guaranteed, with the results of fostering volume production and, it may be assumed, cutting promotional and sales costs, there has, nevertheless, been no corresponding reduction in prices.

"Nearly 35 years ago, the Supreme Court of the United States, speaking through Mr. Chief Justice Hughes, denied conclusive effect to proof that the prices charged by a utility's manufacturing affiliate were less than those charged by other manufacturers and less, also, than the affiliates charged independent companies, and remanded the case for further findings, stating: 'The point of the appellants' contention is that the Western Electric Company, through the organization and control of the American Company, occupied a special position with particular advantages in relation to the manufacture and sale of equipment to the licensees of the Bell system, including the Illinois Company, that is, that it was virtually the manufacturing department for that system, and the question is as to the net earnings of the Western Electric Company realized in that department and the extent to which, if at all, such profit figures in the estimates upon which the charge of confiscation is predicated. We think that there should be findings upon this point.' (*Smith v. Illinois Bell Tel. Co.*, 282 U. S. 133, 153.) Petitioner denies the applicability of the *Smith* decision, and while it is true that the language pertinent to the problem before us is to some extent dictum, it was most certainly intended to delineate the nature and scope of the

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inquiry and findings to be made upon remand, with particular reference (at p. 153) to the extent to which, if at all, the profit of the affiliated supplier 'figures in the estimates upon which the charge of confiscation is predicated.' Consequently, we attach weight to the opinion if only as one guide to the proper course of our decision in this parallel case.

"If the inquiry into and the scrutiny of profits, recognized in *Smith (supra)* and again in *Western (supra)* as necessary and proper, do disclose the unreasonableness of the intercompany charges, despite comparable charges by others, the corollary right of the commission to make proper adjustment is self-evident, unless that right of scrutiny is to give rise to nothing more than an exercise in futility. The issue is not the right of a supplier to charge a particular price or the right of the customer to pay it, but, rather, the right of the commission to enforce the paramount public interest in a rate that shall not reflect inflated costs. That the commission's determination is thus in pursuance of its proper function, and is not a rate-fixing process applied to nonutilities, seems too clear to require discussion; and we find petitioner's contention to the contrary, and its reliance upon authorities clearly inapposite, alike unfounded.

"We are unable to appraise as arbitrary or unreasonable the basis upon which the commission computed the affiliates' respective percentages of profit, that is, upon historical book costs, rather than upon the costs of the acquisition of the affiliate AE, particularly when, as seems tacitly to be conceded, the purchase price reflected the very earnings and profits examined in this case and found to be excessive. True, as petitioner contends, the vendors of the outstanding interests were not obliged to sell at a price which should not give effect to prospective earnings at the level of those compiled in the past or reflect an evaluation of present good will, however doubtful its advantage and value after 100% ownership and affiliation; but, on the other hand, there was no warrant for an assumption by G T & E, when it paid for such considerations, that the excessive prices necessary to continued extraordinary profits would not be taken into account in fixing rates for its subsidiary utility, with consequent effect upon its investment therein.

"Neither in those of the petitioner's contentions which we have treated nor in those which it seems unnecessary to discuss, do we find a substantial basis for interference with the determination; and we account it neither arbitrary nor unreasonable.

"The determination should be confirmed, with \$75 costs."

With respect to this citation, Counsel said there was a similarity between the situation described in this case and the situation in the case now before the Board, in that the point was made that the manufacturing supplier was charging

unaffiliated companies something more than it was charging the affiliates. The petitioner's common stock was owned by a holding company, G T & E, in a manner similar to that applicable to British Columbia Telephone Company. There was no firm contract for the purchase of equipment; neither was there in the present proceedings. Petitioners in the New York case had stated that equipment was purchased from Automatic Electric "when possible" or "when suitable"; in the present case, the Company had emphasized compatibility as the reason for purchasing so much from Automatic Electric. Counsel took it that petitioner had treated directory revenues in the same way as the Company. As to the prices paid by the Company to its affiliates, Counsel said it could pay the prices it wanted to pay, but the Board's concern was that any excess should not be considered as part of the Company's costs in determining rates. Finally, the powers of the New York Public Service Commission, as Counsel saw them, did not turn upon any particular statutory provision in the case cited, but upon a paramount public interest.

The second case referred to by Counsel was *The California Public Utilities Commission re The Pacific Telephone and Telegraph Company*, 53 *Public Utilities Reports*, 3rd. Series, page 513. This was a 1964 decision of that Commission. Counsel quoted the following two headnotes from page 515 of the report of this decision:

"Valuation, §69.1— Purchases from affiliated supplier.

"16. Little, if any, weight could be accorded price comparisons in judging the reasonableness of prices of an affiliated supplier, in fixing telephone rates, where comparability of manufacturers and suppliers was not established and the reasonableness of the other companies' prices, even assuming comparability, was not demonstrated; and the cost to the affiliates was held to be significant.

"Return, §21.1— Affiliated supplier of materials.

"17. An affiliated manufacturing company from which a telephone company purchased materials and supplies was entitled to no greater return on its sales to the company than the telephone company was entitled to earn on its operations; and the parent company would not be permitted through the corporate instrument of the manufacturing subsidiary to subject ratepayers to the burden of proving an unreasonable return."

Counsel also made the following citation from this decision, commencing at page 547 of the report:

"Western Electric Company, Inc., and the respondent are arms of the same corporate combine in the Bell System. . . . Western, in addition to being the manufacturing branch of the Bell System, also acts in the capac-

ity of purchasing agent and supply department and as developer, storekeeper, installer, repairer and salvager. Western has several wholly-owned subsidiaries, including Nassau Smelting and Refining Company, Inc., Teletypewriter Corporation, and Weco Corporation. Bell Telephone Laboratories, Inc., is owned 50 per cent by Western and 50 per cent by American. Western is by far the largest manufacturer, installer, and procurer of telephone equipment in the United States, accounting for 80 per cent or more of the total business. Respondent, like other Bell System companies, makes most of its purchases from or through Western under a standard supply contract. The prices under this contract are fixed by Western. Because of the close affiliation of Western and respondent, the commission staff made an investigation of Western's accounting procedures and of its profits and earnings on net investment over the 46-year period 1916-1961 and for the first nine months of 1962. The staff also reviewed Western's pricing policies, inspected several of Western's principal manufacturing plants, conferred with executives of Western and American in New York and elsewhere, studied reports on the operating results of Western, reviewed the proposed report of the telephone investigation made by the Federal Communications Commission in 1938 and also reviewed the anti-trust action brought by the United States government against Western and American commencing in 1949 and culminating in a consent decree in 1956. In addition, the staff considered prior decisions of this commission and underlying exhibits as related to respondent's purchases from Western.

"The staff in its presentation followed the previous decisions of this commission in considering Western a manufacturing and construction department controlled by an affiliated company and entitled to no greater return on its sales to respondent than respondent is entitled to as against its ratepayers. The staff maintained that the books of account of respondent do not accurately reflect the costs to the utility and its owners for expenses incurred in operation and investment in rate base components with respect to purchases from and through its affiliate, Western; that with respect to such purchases respondent's books of account reflect prices that are fixed by respondent's owners and to be paid to respondent's owners; that such prices include cost plus return; that the rate of return actually enjoyed by respondent's owners on the inter-affiliate business at the prices fixed by respondent's owners during the 46-year period, 1916-1961, was a composite 9.1 per cent; that during this 46-year period Western realized earnings of \$340,746,000 more than the returns found fair by this Commission for respondent, a composite of 6.5 percent over the entire 46-year period; and that in the test year there remains in respondent's intrastate rate base \$22,681,000 more than the cost to the owners plus a reasonable return on investment and that respondent's intrastate maintenance and depreciation

expenses include \$3,131,000 more than is reasonable under the affiliated relationship. The staff's specific adjustments to rate base and to expenses for purchases by respondent from and through its affiliate, Western, are developed in Exhibits 3, 43 and 47 and are summarized in the tabulation on page 549."

.....
(page 553) "While respondent has again challenged the use of these rates of return applied to Western's sales to respondent, we find nothing in this record which would warrant a change in the Commission's holding that Western is entitled to no greater return on its sales to respondent than respondent is entitled to earn on its operations. American should not be permitted, through the corporate instrument of Western, to subject respondent's ratepayers to the burden of providing an unreasonable return. We find that the rates of return used by the staff in developing its adjustment for purchases from Western to be those found fair for respondent for the years involved and that they produce a fair and reasonable result, except that for the test year the rate of return should be that accorded respondent herein, namely, 6.3 percent."

In the opinion of Counsel, there could not be any doubt that the cost of the services and equipment purchased by British Columbia Telephone Company from affiliated companies was significant; it had amounted to almost \$25 million in the past year. So long as these kinds of relationships existed, it was the duty of the Board to satisfy itself that the majority shareholder of the Company was not benefitting by reason of them. What the staff of the California Commission did was a clear indication of the amount of work involved in getting to the root of the whole problem. Counsel did not suggest that the Board had the right to require the affiliates with which the Company did business to reveal to the Board their financial statements. On the other hand, the Company could not meet its onus to satisfy the Board as to the reasonableness of the prices paid to affiliates without producing such financial statements and the Board had adequate persuasive power to prevail upon the Company to make those statements available.

The importance of further enquiry into the propriety of payments to affiliates was manifest from the amounts involved. If there were an overcharge of as little as 6%, the parent company would have gained a benefit equal to the total amount of the annual addition to surplus. An overcharge of 10% would have the same effect as doubling the amount of dividends received by Anglo-Canadian Telephone Company on all the common shares it holds in the Company. Counsel

was not saying there had been overcharges; he could only say that the Board had inadequate evidence before it on which to decide whether the payments made were justified. The Board ought, therefore, to request the Company to make available to the Board's staff the financial statements of the following related companies: Automatic Electric, (both the manufacturing and sales companies), Canadian Telephones and Supplies, Dominion Directory Company and Lenkurt Electric Company. Such financial statements, together with such other information as would enable the Board to determine what portion of the profits of each of these companies was derived from business with the Company, would enable the Board to say whether such profits represented more than a fair return on the capital employed.

In making the foregoing suggestion, Counsel said he had in mind the wishes expressed by the Board in its March 1953 Judgment* which resulted in a reduction in the commission paid by the Company to the directory company. In that oral Judgment, the Board had said:

"Mr. Bull [Counsel for the Attorney General and the Municipalities] also suggested that the Board disallow for rate-making purposes at least some portion of the 35 per cent commission presently being paid by the B. C. Telephone Company to a subsidiary of Anglo Canadian Telephone Company called Dominion Directory Company Limited, which commission is paid to the Directory Company in compensation for securing advertising in the B. C. Telephone Company's directory.

"If I did not entertain doubts as to the Board's jurisdiction to effect, for rate-making purposes, the equivalent of a 5 per cent reduction therein, I would not hesitate to do so in view of the increased volume in directory advertising since the Board last had cause to examine this contract as well as for other reasons more fully set out in the judgment. Under the circumstances, because of the doubts which I entertained, I suggested to the telephone company's legal representatives that they ascertain if under these particular circumstances, consent of the Directory Company could not be procured to make a voluntary reduction of 5 per cent in the rate of commission presently paid, effective as of January 1, 1953. This, it is calculated would effect a saving to the Telephone Company of approximately \$40,000 per annum based on 1952 volume of business and which in turn would be deducted from the Company's revenue requirements. I was particularly pleased to receive from Mr. Sherwood Lett, Q. C., an affirmative reply applicable to directory advertising contracts sold after January 1, 1953."

In response to a question from the Board, Counsel agreed that his request involved both the willingness of the Company to obtain and the willingness of the supply or manufacturing companies to supply the required information. As to the division of capital employed and profits derived, Counsel thought the

*—Oral Judgment of March 24, 1953; (70 C.R.T.C. 56; 43 J.O.R. & R. 32).
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Board's staff would want to satisfy itself that such divisions were reasonable and proper.

The use of separate companies for directory advertising and construction work was challenged by Counsel. He thought the Company was sufficiently large today to provide its own advertising department and that the salesmanship involved was no more difficult than that required for the other services of the Company, but until the return made by the Directory Company was known, there was no way of telling whether this would be a very profitable thing for the Company or not. The excuse given for using Canadian Telephones and Supplies was that construction work fluctuated, but Counsel was certain that the construction work performed by the Company itself also fluctuated. Such fluctuation in construction was no substantial reason why the corporate structure should have an offshoot beyond the reach of the regulatory body.

With respect to the service contract, Counsel conceded that very little criticism could be made of the form of contract. Provided the organization furnishing the services was a non-profit one and the percentage of overall operating costs paid by the Company was reasonable, and provided the services obtained compared with those obtained by other members of the General Telephone System, there were advantages to the Company. It should not therefore be a very difficult task for the Board to determine whether these aspects of the contract were reasonable.

(4) Pension Expense:

Counsel submitted that the Board was entitled to expect that pension costs would be lower in future years as compared with 1964. He also urged that some part of the costs incurred in respect of past years' service should be charged against the additions made to surplus in excess of the level contemplated by the Board in its 1958 Judgment. As to paragraph 18 of Bulletin No. 21 of the Canadian Institute of Chartered Accountants, which said that any deficiency in respect of past service costs should be remedied by a single charge to earned surplus, Counsel expressed the view that Chartered Accountants were surely not that hidebound in interpreting their own Bulletin and that it would be possible to charge some part of past service costs to earned surplus, if such surplus were insufficient to take care of all past costs, leaving the balance to be charged against future years. Counsel interpreted paragraph 13 of the Bulletin as dealing with a new pension plan in which past service costs would not be involved. That was the reason for paragraph 18: to provide for a transition from one pension plan to another form of plan having a liability for past service benefits. Because the Committee which had formulated the Bulletin had over-

looked the fact that there might be a company with insufficient earned surplus on hand to absorb past service costs in a single charge, that should not make it impossible to charge a part of such past costs to earned surplus to the extent that the Board might find such surplus had exceeded what it had considered reasonable and proper in its 1958 Judgment.

In this connection, Counsel conceded that the Company's surplus should have been increased as total invested capital was increased over the period. He also said that the allowance for surplus could be determined as a percentage of total invested capital at the time of the 1958 Judgment and that such percentage could be applied in subsequent years to the Company's total capital. But this did not mean that he accepted as proper the figures presented by the Company as the earned surplus for the years 1959, 1960 and 1961, if the Board thought adjustments should be made. Counsel for the Company commented at this point that he was confused by this argument; he took it that there was now to be some element of growth in the annual addition to surplus and that, to the extent the Board permitted such growth, it was preserved from attack insofar as pension costs were concerned, but he wondered whether any deficiency in the Board's indicated permissive surplus could be recouped out of subsequent additions to surplus before pension costs were charged against surplus.

Counsel for the Attorney General emphasized he was not in any way attacking the Company's pension plan as to what had been done in the past, but he submitted that it was incumbent upon the Company for ratemaking purposes to ensure that it took full advantage of any saving it could make integrating its pension plan with the Canada Pension Plan. The shareholders could, if they so wished, be very generous with their employees, but for ratemaking purposes the pension plans ought to be integrated. In this connection, Counsel thought the Board should keep the Company's pension plan and its costs under reasonably constant surveillance, so as to ensure that any gains from interest in excess of actuarial calculations or from capital gains that could be reasonably credited against cost were made to keep the cost of the plan to telephone subscribers at the lowest possible level. He conceded that the Board would, of course, take the benefits of tax savings into account when making any calculations with respect to pension costs.

(5) Depreciation:

The importance of ensuring that today's subscribers were not burdened with depreciation expense that ought properly to be borne by the subscribers of later years, and the avoidance of the reverse situation, was emphasized by Counsel. Whilst it might be true that an error made by the Company in its depre-

ciation studies would ultimately be adjusted so that depreciation would not exceed the cost of the asset concerned, this was not enough. The Board had to ensure that depreciation was properly allocated so as to prevent present subscribers being denied any rate relief to which they might otherwise be entitled. A very accurate appraisal of the Company's depreciation policy was therefore essential if equitable treatment was to be given to subscribers and Counsel once again urged upon the Board that independent consultants should be retained to review the Company's depreciation studies. A simple error of 0.1% represented approximately \$400,000 in the determination of net income.

With respect to the suggestion that depreciation rates could be so adjusted at a later date as to ensure everything came out to the same thing in the end result, Counsel emphasized the necessity of the subscribers of each year bearing their fair share of depreciation expense. To do otherwise would be to abandon the total-life principle and to adopt the remaining-life principle. This did not mean that adjustments were not made, but when they were made under the total-life principle, they were carried back to the beginning of the life of the asset, whereas any shortage under the remaining-life principle was merely added onto the remaining life of the asset.

In conclusion, Counsel pointed out that not only had there been a great increase in the net plant of the Company in the past six years, but there had also been substantial changes in depreciation rates. Since April 1958, the composite depreciation rate had risen from 4.3% to 5.3%. Very substantial changes had been made in individual group rates and it was obvious that there had been a very substantial change of opinion with respect to the service lives of a great deal of equipment. These changes might be justified, but the regulatory authority had a duty to satisfy itself that these were proper adjustments. The validity of such changes should be thoroughly investigated and the only proper way to do this was by employing an impartial firm of engineers.

(6) Preferred Dividends on the Write-Up of Assets in 1927:

It was, said Counsel, precisely during a review such as the present one that the propriety of allowing dividends on shares issued without consideration ought to be re-examined by the Board. This was particularly important when the Company was asking the Board to find that its future permissive level of earnings should be based on its total invested capital, rather than on the basis of fiscal requirements. To Counsel, this new basis was essentially the same as a rate-base rate-of-return approach, the only difference appearing to be that the Board would not have the laborious task of deciding which assets were used and useful in the public undertaking. It might well be that the Company had put its plea on the basis of a rate of return on total invested capital, because they were faced squarely with the Board's Judgment in the C. P. R. Rate-Base Rate-of-Return Case in which such method was declined by the Board.

If there were to be a change in the method followed by the Board, then the Board should satisfy itself completely that the \$4 million write-up of assets which was in the Company's capital structure was one that should be permitted a rate of return. Counsel thought it was fairly universal for regulatory commissions to use historical cost in determining the rate base and to refuse to allow a write-up of assets. If this were so, then possibly the subscriber should not bear any part of the annual dividends of \$240,000 on this issue, making of course the necessary adjustment for the resulting tax savings on the payment of such dividends.

(7) Share-Issue Expense:

Counsel submitted that the method followed by the Board in its 1958 Judgment of making a specific annual allowance for share-issue expense had proved impractical. As shown by Exhibit No. AG-11, the Company had not required the \$400,000 allowed by the Board in any of the years under review except 1960; actual share-issue expense had been as low as zero in 1964. The only equitable system for meeting these irregular and varying charges was one of amortization over a proper period of time. It was plain that the substantial share-issue expense of some \$1.4 million which was anticipated for 1965 ought not to be debited in a single year; the same was true of the \$600,000 premium paid on the redemption of preferred shares. Counsel for the Company had said it would be six-and-a-half years before any benefit would be realized from the preferred-share redemption, yet he seemed opposed to amortizing the expense over even this short period of time.

It would not be unreasonable to amortize share-issue expense over the same period as the longest-term bonds of the Company. As to the suggestion that share-issue expense had not had a harmful effect on telephone rates since 1958 and that his concern was that such expense might be adversely reflected in future telephone rates, Counsel said he could not quite agree. He had to look at the rates the Board might fix in any individual year, based on the revenues and expenses of that year. The subscriber had to be in a position to judge this matter from year to year and determinate whether or not he would come to the Board and ask for a reduction in rates. The Board likewise had to be able from year to year to judge the matter, regardless of whether rates were changed in those years. Only if share-issue expense were treated in the correct manner could this be done.

From the accounting point of view, share-issue expense was a shareholders' expense. In the United States, it was commonly referred to as a below-the-line expense. When rates were fixed on the basis of a rate of return on a rate base, such expense was a factor taken into consideration in fixing the rate of return,

but it was not allowed as an operating expense. It was not a cost of doing business; it was a shareholders' cost. While it might be regarded in the larger sense as a cost of doing business, it was really a question of putting it in its right place in the accounts for ratemaking purposes. This, said Counsel, was an issue which had been discussed in the 1958 rate case where he had taken the position that something should be added to the surplus account to take care of share-issue expense. The Board, however, had not seen fit to accede to this argument.

The following extract from the Board's Judgment of July 18, 1958, (77 C. R. T. C. 303; 48 J. O. R. & R. 225), was quoted by Counsel:

"In arriving at the amount which it was estimated would be available for transfer to earned surplus for the year 1958, the Company included provision for an amount of \$400,000 in respect of share issue expense. Witnesses for the Applicant and for the Respondents agreed that for accounting purposes share issue expense should properly be treated as a charge against earned surplus rather than against current earnings and an amount of \$362,284 was, in fact, handled in this way by the Company, as shown in its 1957 Annual Report. In his evidence for the respondents Mr. Skinner expressed the view that since share capital is raised only irregularly this treatment would also be proper for rate making purposes and that it would be inequitable to set rates on the basis of recovering the costs of a share issue in any single year. He felt that the costs involved should, for rate making purposes, be merely one of the factors to be borne in mind in determining a reasonable surplus for the Company. The Company, on the other hand, contended that the experience of the last five years, coupled with the capital expansion programme planned for the next few years, justified inclusion of the amount in question as a charge against operations for the year on which rates were to be based.

"In the circumstances of this particular case it seems to the Board that, for rate making purposes, it is more appropriate to allow such an item to be considered as a charge against earnings, rather than to have it obscured in the permissive annual surplus. At such time as the Company's capital expansion programme diminishes, steps will be taken by the Board to eliminate any such item from allowable expenses. The Board therefore finds that \$400,000 is a reasonable amount to allow as a charge against earnings for share issue expense at this time."

Counsel pointed out that the Company was, at that time, treating share-issue expense as something in the surplus account; that it was obvious that two suggestions were made to the Board, that it be charged against surplus and that it be charged against operations; and that the Board's conclusion had left the question wide open.

With respect to one ingredient of the proposed share-issue expense for 1965, Counsel said he took the position that no charge whatsoever should be made to operations on account of the sum of \$120,000 paid by the Company as tax on the preferred-share redemption premium. This sum should be paid by the shareholder for whose benefit it was incurred. While the Company had to pay this tax, it was something to be charged to shareholders' account for ratemaking purposes.

Counsel submitted that the problem of share-issue expense was exactly the same, whether a fiscal-requirements basis or a return-on-capital basis was used, although it would be expressed in a different way under each basis. On a fiscal-requirements basis, Counsel would prefer to see it expressed as part of the surplus in dollars and cents. Under a return-on-capital basis, it would be included in the rate of return permitted. Whatever the basis, the essential problem was how to spread the cost equitably over a reasonable period of time. Such cost was eventually paid by subscribers since the Company would recover it over a period of time. Counsel saw no difference between amortizing share-issue expense and amortizing bond-issue expense, except for the fact that no judgment as to time period for amortization was involved in bond issues.

With respect to the redemption of a preferred-share issue in 1965, Counsel agreed that it had resulted in a saving of interest costs that would redound to the benefit of subscribers, but he did not agree that this would result in debiting the shareholders with the redemption costs and crediting the subscribers with the benefits of redemption. Although the shareholders would initially bear the expense of redemption, they would recover that expense over a period of time, either by an allowance in the allowable surplus or by an allowance in the permitted rate of return. He agreed that such redemption and refinancing improved the shareholders' position and at the same time reduced the required earnings of the Company, but he pointed out that this also put the Company on a sounder financial basis from the point of view of the common shareholders.

(8) Charitable Donations:

Counsel said he was not suggesting that the Company, which was undoubtedly a good corporate citizen of the Province, should not make donations to the worthy causes it had supported in the past and showed indications of supporting in the future. The whole question was who should bear the costs: the subscribers or the shareholders. By making a charitable donation, the Company was in effect saying to subscribers, (who might have already contributed to the cause in question), we are going to include in your telephone rates an additional contribution. The main common shareholder of the Company, however, received its dividends and made no contribution whatsoever. In Counsel's view, the shareholders should make the donation and in terms of accounting it should be a below-the-line item.

In this connection, Counsel quoted the concurring opinion of Mosk, J. to the opinion of Bruke, J. of the Supreme Court of the State of California on an appeal from the decision of the Public Utilities Commission of the State of California, (53 P. U. R., 3rd., page 513, referred to earlier under section 3. (c) (3) of this summary), as follows:

"I wish to explain briefly my reasons for joining in the court's holding that the commission erred in acquiescing in Pacific's past policy of sending telephone users a bill that included the company's gifts.

"In establishing a future policy 'to exclude from operating expenses for rate fixing purposes all amounts claimed for dues, donations and contributions' the commission cannot justify allowing the sum of \$305,000 as part of operating expenses during the test year. Contributions, being voluntary, are by definition not necessary to the furnishing of service by the public utility.

"Although some jurisdictions have reached a contrary conclusion, I am persuaded by *Chesapeake & Potomac Telephone Company v. Public Service Commission (Md.)* which held at page 485: 'If charitable contributions are allowed as an operating expense of a monopoly, it amounts to an involuntary levy on the ratepayers.' A similar result was reached in *Peoples Gas Light & Coke v. Slaterry*

"Corporations are permitted to 'make donations for the public welfare or for charitable, scientific, or educational purposes.' A dissatisfied stockholder may seek to change the policies of a corporation, defeat the directors, or sell his stock investment. No comparable alternatives are available to the monopoly ratepayer, whose only choice is to pay the full bill sent to him--for services rendered and gifts made in the name of the company--or abandon the use of his telephone. The unfairness is manifest.

"The commission's declared future policy does not appear to prohibit the utility from making contributions but only precludes charging them as an involuntary levy on its ratepayers. This limitation is not only desirable in the future but also should have been applied to the recent test year. As stated in *Carey v. Corporation Commission*, 'If as a matter of judgment (a gas corporation) desires to take part of its earnings, just as would an individual, and contribute them to a worthy public cause, it may do so; but we do not feel that it should be allowed to increase its earnings to take care thereof.'

"Counsel for Pacific and for the amici curiae argue that contributions have provided indirect pecuniary benefit to Pacific. The suggestion that charitable donations are motivated by the donor's expectation of financial

return demeans the worthy institutions and beneficiaries involved. As stated in *Denver Union Stock Yard Co. v. United States*, 'it was not, and probably could not have been, proved that failure to respond (to requests for contributions) would adversely affect (the company's) revenue.'

"The commission's legislative policy for the future is commendable, but it is at least a year overdue. Protection of ratepayers requires hereafter, as it should have in the past, scrupulous adherence to that policy."

Counsel commented that the foregoing citation was a fairly forthright statement on the matter of donations. Essentially, the Company was sending the subscriber a bill for its gifts. These gifts were not necessary to the furnishing of service by a public utility, the Supreme Court of California had said, and Counsel said he saw in that statement a thread going back to the *Bluefield* case with its reference to economical management.

In response to a question from the Board, Counsel conceded there could be a type of donation, (for example, to support research in electronics where the Company might gain a business dividend out of such research), that would fall outside the categories of donations involved in the California Supreme Court judgment.

(9) Income Tax and Capital Cost Allowances:

In the opinion of Counsel, the fact that the Privy Council had declined to reverse the Board's decision in the Bell case, (Order-in-Council P. C. 1958-1625), did not mean that the Privy Council had appropriated the Board's jurisdiction over the matter of income tax and capital cost allowances. The most significant fact about the choice made by the Company between the methods of income tax accounting open to it was the quite general agreement that the only losers were the telephone subscribers. For that reason, the matter called for the most careful attention of the Board. The Company's decision had had the effect of depriving subscribers of the benefit of what, in effect, was an interest-free loan from the government. But this was a decision of the Company, and the Company could have accepted the Privy Council ruling in the first case, (Order-in-Council P. C. 1958-602), and could have continued to take maximum capital cost allowances, being allowed for ratemaking purposes only the amount of tax actually paid. The Company's decision, which was upheld by the Board, was made solely on the basis of what was best for the shareholders.

Counsel said he was urging the Board to require the Company to claim maximum capital cost allowance, because that would result in the lowest cost to subscribers and because the Company had a duty to carry on its business at the lowest possible cost. It was not beyond the bounds of human ingenuity to devise a method whereby the burden could be borne by subscribers and share-

holders and, in Counsel's opinion, the method devised by the Public Utilities Commission of British Columbia was a very equitable solution to this problem. Counsel for the Company interjected at this point that this could not be done with the Order-in-Council still in effect. Counsel for the Attorney General said the Public Utilities Commission of the Province had permitted the claiming of maximum capital cost allowance by utilities under its jurisdiction. The Commission had also permitted deferred-tax accounting, but required the utility to make a fictional credit to the income account based on the average bond-interest rate paid by the utility. In this way, the subscribers, who were providing this fund, were given credit for having done so. Counsel said he knew of no reason why, even in the Federal field, a similar scheme could not be worked out that would not conflict with any Order-in-Council as passed.

Counsel said he would go a little further on this matter and he made the following statement:

"I do not believe it is beyond the power of this Board to report on this matter to the Governor-in-Council suggesting that in view of the events, the times since 1958, it would be appropriate that this whole matter be reviewed again. There was a great deal of confusion in accounting circles, which of course infected counsel appearing in these cases as well in due course, but there was a great deal of confused thinking on this matter, which time has shown more clearly an appropriate course that could be taken, and I urge upon this Board that it report this fact to the Governor-in-Council with the suggestion that the matter might again be reviewed and I presume that the reaction of Council would be to turn it back to the Board and say, 'Give us a report on this and we will consider it.'"

Counsel added that he could think of no better time than now to draw this matter to the attention of the Governor-in-Council, when both the Bell and the British Columbia Telephone cases were before the Board, and he thought that the Company would support any review such as he had suggested. A mistake had been made in the past and there was no reason why it should be perpetuated forever to everyone's disadvantage.

The Company's Exhibits Nos. BC65-J-10 and BC65-J-11 indicated the importance of this matter. Exhibit No. BC65-J-10 showed in column 6 the taxes not deferred, but which could have been deferred, as a total of some \$24 million over the seven-year period 1958-1964. Exhibit No. BC65-J-11 was a projection over the next five years which indicated that savings of some \$43 million could be made; this would amount to net savings of not quite \$22 million over the next five years.

Counsel said that, even with the suggestion he had made to the Board, he was also compelled to reiterate the fact that the Company had, by its decision in 1958 to pay full taxes, certainly not operated the utility in the most economical possible way from the point of view of the subscribers. It was in the Company's power at that time to have claimed and saved the amounts shown in the Exhibits just mentioned. In this connection, Mr. Dale-Harris had said:

"I should argue strongly against the adoption of a flow-through policy either in an ordinary commercial enterprise or, for that matter, in a utility.

"I do believe that once a regulatory authority has limited tax expense to tax actually payable, then it should give full effect to its ruling and it should restrict the allowance for taxes to the amount required to be paid."

Counsel said he took it that the amount required to be paid was the minimum amount required to be paid, and that was by claiming the maximum capital cost allowance; and the Board should enforce that.

At this point, the Board asked Counsel whether it would be going counter to Order-in-Council P. C. 1958-602, if it were to follow the practice of the Public Utilities Commission of the Province, particularly in view of the following conclusion of that Order-in-Council:

"And to direct the Board that as a principle of rate-making policy credits to tax equalization reserves shall not be regarded as necessary expenses or requirements in determining rates and charges."

Counsel replied that he thought this would be so and that the Order-in-Council had to be changed.

(10) Capital Investment, Dividend Payments and Retained Earnings:

Reference was made to the Company's Exhibit No. BC65-J-4, showing its capital investment during the period under review. Counsel noted that it indicated that the ratio of capital stock to total capital had ranged from a low of 48% to a high of 51% over the period. Generally speaking, he did not think there could be any complaint against the Company as to its debt-equity ratio; it would appear to be within what might be termed a zone of reasonableness for such ratios.

With respect to dividend payments and retained earnings, Counsel stated he was not suggesting that the Board's approval had to be obtained before the Company raised its dividend payments, but he was saying that the Board's approval had to be obtained for ratemaking purposes. Until that approval had been obtained, and the Board had satisfied itself that the Company should be permitted a higher level of dividends for ratemaking purposes, then the Board

had to consider its last Judgment as the guiding fact in measuring what the dividends ought to be. In this connection, the Company would have to satisfy the Board in a ratemaking proceeding that it should be permitted a higher level of dividends. Counsel emphasized he was dealing with this matter on a fiscal-requirements basis.

Even on the Company's own submission to the Board in the present proceedings, it was obvious that the rate of return at the present time was adequate. The rate of return on the average invested capital for 1964 was 6.37% and Counsel thought it would be slightly higher than that in 1965. When consideration was given to the leverage afforded by the debt, the preferred, and the preference portions of the capital structure, this indicated how satisfactory and adequate was the present return to the Company, without making any adjustment for the expenses previously discussed by Counsel for the Attorney General. If there were any further improvement in that situation, the benefits of that improvement ought to be shared with the subscribers.

Counsel said that one of the Company's exhibits, Exhibit No. BC65-J-5, showing the cost rate of paid-in capital of the Company and six other Canadian telephone companies, was of particular significance. It indicated a creditable performance by the Company, but since the Company's cost rate was the lowest of any of the Canadian telephone companies, it also suggested that on a cost-of-capital basis a fair return to the Company could properly be less than the return to any of the other telephone companies, all other things being equal. Counsel had, however, some criticism to make with respect to this particular exhibit; there had been no attempt to put the capital structures of the companies shown in the exhibit on the same basis and the matter of deferred-tax accounting had not been taken into account in the comparison made. Counsel agreed, however, that to make theoretical changes in such capital structures would involve assumptions as to the reception the shares would have received under a different structure.

Counsel thought that an interesting comparison could be made between Exhibit No. BC65-J-5 and Exhibit No. BC65-F-11. In the latter exhibit, Dr. Nicholson had developed the figures for the economic cost of capital and such figures were substantially higher than those shown in the former exhibit. As to the figures for times interest earned in Exhibit No. BC65-J-9, it was obvious that the figure for the Company should be less than that for Bell Telephone, because Bell had a much larger equity ratio in its capital structure and therefore necessarily had to provide more times interest on its bond issues in order to service its equity.

In Counsel's opinion, all of the foregoing figures pointed to the fact that the present financial picture of the Company, from the point of view of its shareholders, was quite satisfactory and adequate.

(11) The Permissive Level of Earnings:

Counsel said he objected to the exhibits and testimony of Dr. Nicholson on the following, principal grounds. The material and data submitted on the question of the comparable earnings of other companies were produced by a computer, a process which his advisors had been unable to check. If the same input data were to be used, but with programs of another design, it was possible and even likely that the computer would produce quite different final answers. It would then take many days of effort in comparing and checking to determine if either answer was the correct one. Under cross-examination, Dr. Nicholson had been asked why some companies were taken out of one list and not another. Counsel suggested that Dr. Nicholson's answers were not very appealing. Consumers Gas Company had been taken out of one list because of its accounting procedure, but Dr. Nicholson had not discarded other companies in another list who used the same accounting procedure. That, said Counsel, must always make the comparability test suspect. The Bell Telephone Company had been included in one list, but excluded from another because it was too big. Moreover, there was simply no comparability between industrial companies and public utilities. The comparison with the 46 industrial companies should be discounted completely by the Board in its consideration and the Board's attention should be concentrated on the utilities and the telephone companies.

The data and material submitted by Dr. Nicholson on the question of the Company's cost of capital was objected to by Counsel on the ground that it was clearly based on circular reasoning, a process which was useless for regulatory purposes. Under Dr. Nicholson's method, the Company was entitled to receive for the future a rate of return achieved in the past, a method which completely defeated and negated the whole principle of regulation, because if a utility had had low earnings it would have no grounds for seeking an increase, whereas if its profits had been high, very likely its rates ought to have been reduced. Had Dr. Nicholson's process been used in 1958, it would have produced a very low figure at that time, much lower than that which he had produced today, and very likely lower than the Board's allowance in its 1958 Judgment. To take a hypothetical situation, the majority holder of the Company's common stock might want to increase its proportion from the present 50% to 60% or more, but in the process of acquiring the additional stock, it was likely that the market value of the shares would rise. If, in the process, they rose 20%, would that be a valid regulatory ground for increasing the permissible rate of return to the Company? Counsel suggested that the formula used by Dr. Nicholson in determining the cost of

capital produced such an absurd result. He also agreed that the use of earnings-price ratios would result in much the same difficulty and pointed out that Mr. Joseph had said that neither measure was a good one to use, although it had been the practice of regulatory tribunals to use the earnings-price ratio as one measure, but applying it with a great deal of judgment, bearing in mind its particular deficiency.

With respect to a suggestion that, if the Company's earnings had been low and it were before the Board asking for a rate increase, its evidence as to cost of new capital would be a projection of past experience, Counsel said such a projection was quite different from having an expert witness come before the Board and giving positive evidence as to what the Company would have to pay to obtain equity capital or debt. This would not be measurement by any machine process, but measurement by opinion that could be tested in the witness box as to the soundness of the contention.

Counsel for the Company had in the end, thought Counsel for the Attorney General, agreed that Mr. Joseph's criticism of Dr. Nicholson's method was sound, and he had then fallen back on the submission that, because it was only one of two tests used by Dr. Nicholson, and because Mr. Joseph had not attacked the other test, it was sort of offset by the method which was not attacked. Counsel for the Attorney General submitted, however, that the soundness of Dr. Nicholson's other test, while it had not been attacked by Mr. Joseph, had been questioned by Counsel during his cross-examination. If criticism of one of Dr. Nicholson's tests was justified, then his whole method must be discarded by the Board, because there was then nothing to test his first test against. If, therefore, the Board came to that conclusion, it could not on the evidence give any effect to the testimony or the test provided by Dr. Nicholson.

The proposed basis of a return on total invested capital was essentially the same as a rate-base rate-of-return, and mention had already been made of the Board's Judgment in the C. P. R. case. Counsel did not think there was any necessity for changing the method of determining the permissive level of earnings for the Company, except that it might be advisable to fix the allowance for surplus on the basis of a percentage of total invested capital. If that were done, then one could not object to the expression of the earnings permitted for common equity as a percentage, rather than the present \$2.00 per share. Counsel, however, did not see that it was really necessary to make that particular change, because even if the permitted dividend on the common shares were expressed in absolute terms of dollars per share, this would still permit growth, because as more common shares were issued, the allowance based on the \$2.00 per share would go up. But, from Counsel's point of view, either method would be acceptable. He did not really see any advantage, one over the other, which would justify a change in the Board's long-standing practice in measuring a permissive level of the Company's financial requirements.

Whichever method of measuring the permissive level of earnings was adopted by the Board, it was essential that the Board, for the protection of subscribers, be ever vigilant to ensure that the Board's Judgment was adhered to, and it should be understood by the Company that, if they exceeded that level, they would be expected to reduce their rates to subscribers to compensate for the excess. Any system of regulation that was not diligently enforced by the regulatory body was bound to be criticized by the general public. This was particularly essential where, as in the case of the Company, business was carried on wholly within the Province of British Columbia and the controlling or regulatory authority appeared to be in a rather more distant part of the country and perhaps not as fully in touch with conditions in the Province as it would otherwise be.

In Counsel's view, the Company had argued as follows:

"Do not make any finding as to what is a reasonable permissive level of earnings. However, do say, or do find that we are earning at this time no more than would be a reasonable rate of return if you were to determine what a reasonable permissive level of earnings is. Don't find that level of earnings, but find that what we are earning today would fall within that reasonable level if you were in fact finding a reasonable level."

With respect to the Supreme Court decision involving the Public Utilities Commission of British Columbia, ((1960) S. C. R. 837), Counsel said that any rate of return fixed by a regulatory body had to be related to the proceedings before that body at the particular time; the Public Utilities Commission order had been at fault, in that it had fixed a rate of return for a future time.

Counsel emphasized his view that the Board could not possibly make any finding as to the reasonableness of the rates charged by the Company today, because the Board had excluded from its terms of reference the question of rates. All that the Board was doing in the present proceedings, said Counsel, was looking at the situation from the point of view of the Company. It could come to certain conclusions for or against the Company on those things, but if it were in a ratemaking proceeding, then it must take those conclusions which it had found for the Company in one hand and take the considerations for the subscribers in the other, weigh them against each other, and come to some decision in between. Because the essential interest of the subscriber, rates, was not a part of the present proceedings, the only finding the Board could come to was that in the future it would use a particular method of determining a permissive level of earnings. In Counsel's submission, the Board could not pass upon the reasonableness of the rates in effect today.

Counsel agreed that a return of 6.37% at the end of 1964 on total invested capital at that time was not something to quarrel with and that his view was that any increase in earnings substantially above that rate should be translated by the Board at some future time into a reduction of rates to subscribers.

(12) Conclusion:

In concluding his Argument, Counsel summarized his position as follows. The Company had the onus of demonstrating it had carried out the duties it owed to the public, and subscribers had to look to the Board to ensure they received the best standard of telephone service at the lowest possible rates. In the present proceedings on the Board's own motion, their purpose was to determine whether the Company had performed its duty, and if so, whether it was receiving more than a fair return, and how the Board could best assure that it did not in future receive more than a fair return. It was only by efficient and economical management that a utility became entitled to receive a fair return, one that was reasonably sufficient and no more, and there was no justification whatever for providing a bonus for efficient management.

The Board was entitled to expect that the very substantial annual increases in revenue secured by the Company since the 1958 rate increase would continue for some years to come, and that an increasing portion of such revenue would be derived from automated services in which increased volume would result in ever-reducing unit cost. Counsel did not suggest that the Company had in any way failed in its duty to provide a high level of service; its officers and staff were entitled to every credit for the progress they had made. It was his submission, however, that the Company had failed in certain specific instances to meet the onus upon it of showing that the expenses incurred, which it sought to charge the public, were reasonable.

Counsel's submission on these areas of expense were as follows:

(1) Payments to Associated Companies: The Board should request from the Company financial statements for the years 1959 to 1965 of these associated companies, except the Service Corporation, and the Board should assess whether the profit made on business with the Company was reasonable or not;

(2) Pension Expense: The Board should keep under continual review the performance of the pension trust fund, so as to ensure that favourable interest and market experience was reflected in reduced annual charges to operations, and the Board should require that some portion of the costs of past service be charged to surplus accumulated over the last three years in excess of the amount contemplated by the Board;

(3) *Depreciation*: This matter should be the subject of an independent survey, initiated by the Board, a report thereon being made available both to the Company and Respondents;

(4) *Preferred Dividends on the Write-Up of Assets in 1927*: The Board for future ratemaking purposes should disallow the \$240,000 per year paid as dividends on the preferred-share issue made without consideration in respect of the 1927 appraisal write-up, if the Board were satisfied that that was in fact what happened at that time;

(5) *Share-Issue Expense*: The Board should disallow entirely for ratemaking purposes the \$120,000 paid by the Company on behalf of its shareholders as income tax on premiums paid on the 1965 redemption of preferred shares; the Company should also be required to amortize its share-issue expense over a reasonable number of years;

(6) *Charitable Donations*: These should not in future be permitted as expenses for ratemaking purposes;

(7) *Income Tax and Capital Cost Allowances*: The Board ought to insist that the Company use, or be deemed to have used for ratemaking purposes, the method of income-tax accounting that will most benefit the subscriber; i.e. the claiming of maximum capital cost allowances. The Board should make an immediate report to the Governor-in-Council on the whole income-tax problem, if it were satisfied with the suggestions made, before waiting for the issuance of the Board's judgments in these proceedings and the Bell Telephone proceedings.

With respect to the Company's permissive level of earnings, Counsel submitted they were reasonable and that therefore the rate of return could not be said to be unreasonable. Upon further improvement of earnings in the future, the subscribers were entitled to consideration by way of a reduction in rates. If the Board found, upon completion of Counsel's suggested further enquiry, that substantial expenses should be disallowed for ratemaking purposes, then a hearing to institute a general rate reduction ought to follow at the earliest possible date. If, on the other hand, the Board should not feel that substantial disallowances were warranted, then the Board should maintain a most vigilant review of the Company's future expenses and earnings, so that a rate hearing might be instituted immediately upon any increase in those earnings becoming apparent, or upon it appearing that new or increased expenses were being incurred that might not be warranted for ratemaking purposes.

(d) Argument in Reply by the Company:

(1) Vehicle Leasing:

In response to an enquiry by the Board, Counsel for the Company stated that its policy with respect to motor vehicles was, like all its policies, under

continuous review. At the present time, a study was in progress concerning the Company practice of owning some vehicles and leasing others and its completion would take some time. Present leases were not standard ones and efforts were now being made to achieve standardization, so that a more complete and accurate comparison could be made of the costs of ownership and operation and the costs of leasing. The total number of vehicles in the Company fleet was currently 1,234, of which 829 were owned and 405 were leased.

(2) Re Argument of British Columbia Federation of Labour:

Counsel noted that he would be dealing with most of the points raised by Mr. O'Neal in his Reply to Counsel for the Attorney General, but he had the following comments with respect to Mr. O'Neal's Argument on behalf of the British Columbia Federation of Labour.

He was glad to know that Mr. O'Neal did not charge the Company with being a party to the suggested offence of price fixing. The Company did not participate in this and there was no evidence before the Board that it did. At this point, Mr. O'Neal commented that he thought the Company was the victim of price fixing, but he made no such suggestion against the Company. Counsel for the Company suggested that this was not the time or place to try such an issue. He believed that the evidence had shown that the Company was interested in purchasing its supplies, materials and equipment at the best price it could get consistent with the policies outlined by Mr. MacFarlane in the course of his testimony.

As to rights' issues, in the term "benefits" used by Mr. O'Neal was perhaps erroneous in the light of Mr. Brown's evidence that it constituted a protection for shareholders against a dilution of their interest in the Company. Anglo-Canadian Telephone Company was not the only shareholder that received a discount from market price via rights; all shareholders did so, and almost all of them exercised their rights. As to the suggestion that such rights constituted a tax free capital gain, such "gain" if it could be so termed was realized only when the shares were sold, but there was no indication that the shares issued in this way had been sold; on the contrary, the indications were that the shares had not been sold, but had been retained. Mr. Brown's testimony had clearly put the matter of rights' issues in perspective and his evidence was that the amount of capital obtained via rights' issues was approximately the same as would have been obtained via underwritings.

(3) The Company's Economic Review:

Counsel reiterated that it had not been the intention of the Company to become embroiled in a dispute between economists as to what the future held for British Columbia or Canada. The Company, however, had to keep close watch on

economic conditions and any economic change which would affect its revenues. Equally, it had to be concerned with any vulnerability of any source of revenue. It had taken some pains to point out the changing pattern of its sources of revenue. The expenses over which the Company had relatively little control were assuming an ever larger importance. Automation brought with it an inevitable increase in depreciation expense, one of the chief expenses over which relatively little control could be exercised. Thus, a combination of this type of increasing expense and any decline in revenues, due either to vulnerability of revenue sources or to a general economic decline, was cause for concern by the Company.

(4) Purchasing and Special Contracts:

With respect to purchases from associated or affiliated companies, Counsel suggested that the use of total dollar figures for the period under review, or the use of figures for a single year, was an improper approach. What was proper was a consideration of those categories of plant which were purchased from affiliates. Outside plant, comprising 20.6% of total purchases, was purchased on the basis of quoted prices and the lowest prices were taken. Exchange switching equipment was purchased from Automatic Electric basically because of compatibility, the benefits of which had been described by Mr. MacFarlane. This category of plant amounted to 14.2% of total purchases and the methods used to control purchases and prices had also been described by Mr. MacFarlane. The evidence had shown that bulk ordering had demonstrably improved prices to the Company. Comparisons with the purchases of similar equipment from the same supplier by other Canadian telephone companies indicated that the prices paid by the Company were almost always below those paid by the other Canadian telephone companies. Subscribers' station equipment, amounting to 35.8% of total purchases, was also purchased from a single supplier, Automatic Electric, and the prices paid by the Company were as good as, if not better than, those of the other principal Canadian manufacturer, Northern Electric. In addition, there were desirable features on Automatic Electric equipment that were not available on Northern Electric equipment. Radio and multiplex equipment, comprising 20.3% of total purchases, was purchased from Lenkurt fundamentally because of its quality. Over 33% of Canadian systems were currently being furnished by that company. The prices paid by the Company were at least as good as, if not better than, those paid by others. The bulk of the final category of purchases, miscellaneous equipment amounting to 9.1% of purchases, was purchased under a tender system.

Counsel said that the special contracts should also be placed into perspective. The contract with Canadian Telephones and Supplies was essentially limited to construction work and the only question was whether a 12% fee for such work was inordinate. To this question, there could be only one answer: that such fee was certainly not inordinate, particularly when it was considered that head office administration and salaries had to be met out of that fee. The criticism with respect to the directory contract centred upon the 30% fee paid to the directory company. Counsel suggested, however, that it would be as well to look at the fact that the British Columbia Telephone Company retained the other 70%. Moreover, the evidence had clearly demonstrated that the Company derived more revenues per business station than any other company in Canada. Thus, in Counsel's view, subscribers would have just cause for complaint if the Company adopted a course of action which, instead of improving the situation, made it worse. As to the Service Contract, Counsel for the Attorney General had conceded this was on a cost-sharing basis and there was no element of profit involved. Consequently, this contract stood on a considerably different basis than the other contracts.

In the opinion of Counsel for the Company, the basis suggested by Counsel for the Attorney General for testing the adequacy of the Company's purchasing policy and the validity of its special contracts was completely wrong. There were enormous practical difficulties in examining a manufacturing company, whose products were sold to a great many customers in Canada and abroad, and in trying to determine the sources from which its revenues were derived, as well as the costs incurred in deriving those revenues. But it was only when that type of minute examination had been made that it would be possible for the Board to say whether the profits derived from any particular source were too high. To suggest, as Counsel for the Attorney General had done, that there were ways of overcoming the stupendous problems involved was vastly to underrate them.

Only 25% to 30% of the sales of Automatic Electric were made to the Company. In such circumstances, how would it be possible to say whether the profits of Automatic Electric were being enhanced at the expense of British Columbia Telephone Company, at the expense of other Canadian companies, or at the expense of companies outside Canada? It would, said Counsel, be completely futile to endeavour to answer this question merely by reference to the financial statements of the manufacturing company. With respect to the rate of return to be earned by the Company's affiliated suppliers, Counsel noted that Mr. Dale-Harris had at first said that this should perhaps be limited to the same rate of return as allowed by the Board to the Company, but he had later said that the public utility rate of return was not necessarily the one that should be applied to such suppliers. The matter of the applicable rate of return would present a

further problem of determining what rate should be applied to a directory company, to a manufacturing company whose products were sold in Canada and abroad, or to a company doing construction work in British Columbia.

Counsel stated that his position as to the financial statements of associated companies had been as follows. The Company had no power to compel these associates to make such statements available, but if they were prepared to make them available, he would have had no objection to these statements being made available to the advisors of the Attorney General, provided they were not used for the purpose of suggesting that those companies' profits were inordinate at the expense of British Columbia Telephone Company or its subscribers. His reason for his position was that an examination of such statements for that purpose was totally meaningless.

It was submitted by Counsel that the suggested legal basis for the enquiry into the returns made by affiliates was wrong, in that the case relied upon, *General Telephone Company of Upstate New York Incorporated*, was now under appeal and was therefore of doubtful validity until the results of the appeal were known. In any event this case stated the point of view of only one jurisdiction in the United States and there were numerous jurisdictions in that country expressing a diversity of views on this and other matters. In a discussion of this kind, it was essential to recognize the distinction between authorities relating to the A. T. & T. and the Bell System generally, and those relating to other utilities making their purchases in a different manner, as did the General System. It was also particularly important to notice that, in the present proceedings, one was dealing with Automatic Electric Canada Limited, a company which manufactured products for the Company and other Canadian companies, as well as for foreign companies, a situation that was entirely different from that obtaining in the United States, where the manufacturing company, Western Electric, had basically a single customer, the Bell System including A. T. & T.

Counsel cited the following three authorities, in which United States' commissions had dealt with the General System, and in which the principle Counsel was suggesting should be followed by the Board was followed and adopted.

(a) *Washington Public Service Commission in re General Telephone Company of the Northwest*, 30 *Public Utilities Reports*, 3rd. Series, (1959), page 145 at page 151;

(b) *Missouri Public Service Commission in re General Telephone Company of Missouri*, 43 *Public Utilities Reports*, 3rd. Series, (1962), at page 379;

(c) *California Public Service Commission in re General Telephone Company of California*, 25 *Public Utilities Reports*, 3rd. Series, (1958), page 129 at page 133.

With respect to the first case, Counsel stated that the commission had described the extent of ownership of the Northwest Company by the General Telephone Company, as well as the latter company's ownership of the manufacturing companies, Leich Electric and Automatic Electric. At page 152, the commission went on to say:

"Less than 42 per cent of the combined sales of General Telephone System manufacturing and sales companies are being made currently to the domestic telephone operating companies in the General Telephone System. The balance of sales of these companies are made on a highly competitive basis to nonaffiliated customers both in this country and abroad, many of whom are not a part of the communications industry. In the case of Automatic Electric and Automatic Electric Sales Corporation only 38 per cent of the consolidated sales of these companies for the year 1957 were made to domestic telephone companies in the General Telephone System. This is substantially below the break-even point of these companies.

"Respondent, pursuant to its obligation in a rate proceedings to prove the reasonableness of payments to these affiliated interests, placed into the record substantial evidence to prove that they are reasonable."

.....
(p. 153) "Prices charged affiliated companies, for equipment actually manufactured by Automatic and Leich, are not any less favorable and are generally the same as those charged nonaffiliated customers for Automatic Company materials. Automatic Company and Leich could not sell manufactured equipment to their affiliated operating companies at prices lower than those charged nonaffiliated companies because the result would be the creation of inequities between General Telephone System operating companies and other independent telephone companies who are also purchasers from Automatic and Leich.

"Respondent contends that the prices charged by an affiliated manufacturing company are demonstrated to be fair and reasonable, first, the prices are established and limited by truly competitive factors, and second, the public utility is procuring its equipment and other materials at prices no less favorable than those charged by the affiliated manufacturing company to its other nonaffiliated customers."

.....
(p. 154) "In our opinion the reasonableness of charges by the affiliated companies for goods and services to respondent is more properly to be tested by the percentage of profit on sales.

(p. 155) "The Commission, in the protection of the public interest is concerned with the prices paid by respondent to its affiliated companies for supplies, equipment and services. The evidence fails to disclose that such

prices are above those which are fair and reasonable. The Commission recognizes that these affiliates are entitled to include in such prices a reasonable margin of profit, be it based on a percentage of gross sales, as in this case, or otherwise. In the absence of substantial controverting testimony we feel constrained, in this case only, to accept the theory set forth herein that the margin of profit may be computed as a percentage of gross sales. This is not to say, however, that the Commission is reluctant to consider and accept any other acceptable method of measuring a reasonableness of profits in transactions between affiliates."

In commenting on this case, Counsel suggested that the evidence as to prices was precisely the same as led before the Board in respect of British Columbia Telephone Company and its purchases; that, unlike the cited case, the Company was able to secure lower prices than nonaffiliates due to its bulk-purchasing policy; that, in talking of a percentage of profit on sales, the commission was referring to a sales company; and that the commission had accepted evidence that the prices charged were at least as good as, if not better than, those charged by the System elsewhere.

The second case, dealing with the General Telephone Company of Missouri, was quoted as follows, commencing on page 379:

"There was lengthy discussion relative to telephone equipment and supplies purchased by applicant from sales subsidiaries and manufacturing subsidiaries of its parent company. It is incontroverted that more than 50 per cent of the sales made by applicant's affiliates are made on the open and competitive market to nonaffiliated customers. The evidence is incontroverted that applicant purchases from its affiliates at the same or lower prices as nonaffiliated companies purchase from said affiliates. These prices are established on the open and competitive market. The evidence does not justify the commission in finding that the prices paid by the applicant for supplies and equipment are unreasonable. Before such a finding could be made there must be substantial and competent evidence upon which the commission could form a conclusion as to the existence, basis, and extent of any unreasonable payments to an affiliate to the detriment of the ratepayer. In view of the record made herein, the Commission would not be justified in making any adjustments in this respect either to the rate base or operating expenses."

This case, said Counsel, clearly followed the basis adopted by the Company in the presentation of its material.

The third and final case cited by Counsel was the authority of the California Commission in a case involving General Telephone Company of California. He made the following quotation, commencing at page 133:

"Applicant's transactions with its affiliates fall into two general categories. The first involves purchases of materials and supplies from affiliated suppliers. The second pertains to the provision for telephone directory services."

"It is the position of the staff that the relationship existing between applicant and its affiliated manufacturing and sales companies is so comparable to the relationship between The Pacific Telephone and Telegraph Company and its affiliated Western Electric Company that the same types of adjustments should be made to applicant's operations as were made in the rate cases pertaining to The Pacific Telephone and Telegraph Company. Accordingly, the staff's evidence in this proceeding is permeated with adjustments to applicant's book figures and estimates, reflecting in the commodities and services of the affiliates, the approximate rate of return which the commission found applicant was earning at the time of applicant's last rate proceeding."

"The record supports a finding, which we hereby make, that business done by affiliates with applicant was done on at least as reasonable basis, as applied to applicant, as all business done by these affiliates with all General Telephone domestic companies. In view of these facts, the commission finds that the prices paid to its affiliates by General Telephone Company of California are fair and reasonable. Accordingly, the commission will not at this time adopt the adjustments made by the staff."

"It is proper and indeed essential that this commission have before it information upon which it may form a conclusion as to the existence and extent of any unreasonableness in charges which may result from utility-affiliate relationships to the detriment of the ratepayer. The staff inquiry is helpful in reaching a conclusion in this respect. It is expected that a similar inquiry will be made in future rate proceedings concerning applicant, to the end that this commission may be assured that the public interest will continue to be protected."

Counsel commented that this case proved that what the California commission found applicable in the case of Pacific Telephone and Telegraph Company was not applicable in the case of General Telephone.

All the three cases he had cited, said Counsel, supported the fundamental proposition that he was making: that where, as in the present proceedings, it was found that the manufacturing affiliate was doing business with the telephone company to a minority extent, then different considerations applied than in the case of Western Electric and the Bell System in the United States where there was really only one customer.

(5) Pension Costs:

There had, said Counsel, been no suggestion as to what portion of the surplus had been accumulated in excess of that permitted by the Board in its 1958 Judgment. Mr. Dale-Harris had expressly avoided giving an opinion on this and had said he did not know. Thus, said Counsel, he would have to ask: what excess and overwhat period? He thought that perhaps one should go back to the time when the accumulations to surplus were so clearly inadequate that they generated a succession of rate cases. If the imagined excesses were levelled out against the very real deficiencies, then the deficiencies would exceed the excesses.

Apart from the question of what excess, what justification was there for the suggestion that some part of past service costs should come out of surplus? They were costs that had always been there and there had been no change in them. There was nothing in the record to justify taking a cost that had always existed, which Mr. Dale-Harris and his Counsel had expressly said should be met out of revenues, and then to say it should be charged to a mythical excess accumulated surplus.

(6) Share-Issue Expense:

With respect to the tax on the premium paid on the redemption of the issue of 6¼% Preferred Shares, Counsel emphasized that this was a requirement imposed by Canadian income-tax laws which the Company could not avoid, even if it wanted to. No attack had been made on the redemption as such and to derive the benefits flowing from that redemption, the Company was obliged to incur the tax expense, an expense that should be regarded in precisely the same way as any other tax expense. There was no logic in suggesting that some portion of the expenses should be attributed to surplus and that some other portion should be a burden on revenues. If one were to divide expenses in this way, then there would equally have to be a division of the benefits that accrued, a suggestion that was just as unthinkable as the first one. All expenses incurred in the redemption were incurred in respect of a benefit to the interests of subscribers, shareholders and security-holders alike.

(7) Charitable Donations:

In the matter of charitable donations, the Company was in no different a position than any other corporation. Its revenue source, like other companies, was its customers; all funds came from that source. Charitable contributions, suggested Counsel, were built into the price structures of these various companies. To put the matter in perspective, said Counsel, the Company's donations currently approximated 24 cents per telephone per year.

(8) Income Tax and Capital Cost Allowances:

The Company's decision in 1958 to forego claiming maximum capital cost allowances had been approved by the Board and the similar decision of The Bell Telephone Company of Canada had also been approved by the Board. These decisions had, in addition, been approved by the superior appellate tribunal, the Governor-General in Council. Counsel for the Attorney General had suggested that an approach should be made to the Governor-General in Council to have Order-in-Council P. C. 1958-602 rescinded and Counsel for the Company thought this a desirable first step that he could wholly support. But, on the other hand, Counsel for the Attorney General had appeared to suggest that the Company do something Mr. Dale-Harris did not approve of, namely, to claim maximum capital cost allowances, even though the Company was not permitted to accumulate in a reserve the expenses of deferred income taxes. Counsel for the Company suggested that the first portion of this approach, the seeking of a rescission of the Order-in-Council, be accepted. It was a little unusual to suggest that the Board should take this action and he did not make that suggestion himself. Counsel thought the companies affected should make some endeavours in this connection and perhaps the respondents could as well.

In response to a question from the Board whether, if the Board took the action suggested, the Board could say with assurance to the Governor-General in Council that the practice was desirable and would be followed by the Company, Counsel said he could not speak for the Company but he would point to the evidence of Mr. Kennedy that this was a desirable thing to do.

(9) Dividends:

With respect to the suggestion of Counsel for the Attorney General that the Board's 1958 Judgment fixed the Company's dividends, Counsel for the Company suggested that, on the contrary, it did no such thing. In his view, what that Judgment did was to assess the earnings of the Company in the light of conditions as they then were and to fix the amount of annual addition to surplus. It was, therefore, a complete misinterpretation of the Judgment and of the fiscal-requirements approach to suggest that the Board at any time fixed dividends, or fixed irrevocably the dollar amount of the annual addition to surplus.

As to the attempt of Counsel for the Attorney General to compare Exhibits Nos. BC65-F-11 and BC65-J-5, the two exhibits were simply not comparable. J-5 indicated the dividend and interest cost to the Company of its outstanding securities and it contained no recognition of the legitimate demands of investors for some growth factor. F-11, on the other hand, was the economic cost of attracting capital and included all factors bearing on that.

Mr. Kennedy's evidence had clearly indicated that the ratio of the permissive annual addition to surplus had been maintained throughout the period under review.

(10) Dr. Nicholson's Evidence:

Counsel observed that there was no sinister connotation in Dr. Nicholson's use of computers; they were used simply as a labour-saving device, permitting results to be obtained in a short space of time at reasonable cost. Dr. Nicholson's approach to the problem would have been the same without the use of such equipment.

Counsel for the Attorney General had led no evidence whatsoever concerning the level of earnings of the Company or the methods to be employed in determining that level. His witness, Mr. Joseph, had made commentary about the comparable-earnings approach.

Dr. Nicholson had considered the historical costs of capital over a significant period of time, from 1951 to 1964. He had considered in his method the costs of attracting all segments of the Company's capital and he had used that only as a complement to the comparable-earnings approach. Counsel for the Attorney General had suggested that the method used was wrong, but he had also said that the Company, on its own figures, was earning a reasonable return. Counsel for the Company commented that he could only say: wrong method but right result.

As to the future costs of capital, this had been dealt with by Mr. Brown in his evidence and he had stated that, provided the earnings remained at reasonable levels, and that earnings ratios continue to show some improvement, the Company would not have difficulty in attracting capital at reasonable cost. Mr. Brown's evidence was vital in a consideration of where the Company stood now and where it was likely to be in the near future.

(11) The Form of the Board's Finding:

On the positive side, Counsel suggested that the Board should, on the basis of the evidence before it, assess the reasonableness of the Company's earnings at the present time, and should indicate whether, in its view, those earnings were reasonable or not. The Board should also address itself to the problem of the approach that should be used in assessing the reasonableness of the Company's earnings; in this connection, the Company's submission was that this should be done by relating earnings to the return enjoyed on total invested capital.

On the negative side, Counsel submitted that, in order to avoid the difficulties engendered by the Supreme Court of Canada decision in the British Columbia Electric case, the Board should not make a finding expressly approving of a specific rate of return, or ranges of returns, or if it decided to continue using the present fiscal-needs method, a specific dollar figure for an annual addition to surplus.

(12) Conclusion:

In conclusion, Counsel thought that Counsel for the Attorney General appeared to place the Company's subscribers and security holders in two separate and often warring camps, with the retained earnings and surplus of the Company in the middle. Counsel for the Attorney General also appeared to suggest that each of the two groups should see who could derive the most benefit from that surplus. In Counsel's view, a telephone utility was nothing without subscribers from whom the utility derived its revenues. At the same time, subscribers would receive no service, or indifferent service, if securities holders did not provide the capital required for the enterprise. The surplus accumulated by the Company belonged neither to the subscribers nor to the securities holders; it belonged to the Company and existed for the protection of all interests served by the Company. The surplus made possible the maintenance of an even level of rates and assured securities holders that their bond interest and dividends would be paid. To the extent that the surplus was a proper one, the securities of the Company could be sold at favourable rates which was also a benefit to subscribers.

Finally, the Company as well as The Bell Telephone Company of Canada had put all of its revenues into the scales to be weighed, not only those derived from sources for which the rates were regulated, but also those from sources for which the rates were unregulated. All such revenues were for the benefit of all interests served by the Company. The Company had no obligation in law to provide yellow-page advertising, TWX (Teletypewriter Exchange Service), or any of the other discretionary services it had seen fit to provide, but it did so and put all the revenues derived therefrom into the common fund which was there for the protection of all interests. An attack on this fund, by suggesting it should bear this or that portion of expense was not proper, except to the extent that some individual expense might be found to be out of line.

4. DISCUSSION, CONCLUSIONS AND FINDINGS OF THE BOARD:

(a) Introduction:

As mentioned at the beginning of this Judgment, this review of the Company's affairs was undertaken by the Board of its own motion to expose to public scrutiny and examination all the changes which have occurred in these affairs since our last Judgment of December 24, 1958, and to consider the permissive level of the Company's earnings and the basis on which that permissive level may be authorized for telephone rate purposes. It is the first such public review of the Company's affairs which has been undertaken on the Board's own motion, previous reviews having been initiated by the Company through applications for general increases in its rates and charges, particularly during the nine-year period 1950 through 1958.

Although the end result of such a review, the determination of a just and reasonable permissive level of earnings and of the appropriate basis for that level, may be readily understood, the issues and considerations involved in arriving at that determination are complex and they are not easily reducible to clear and simple terms for the general reader without a considerable loss of accuracy and precision. Nevertheless, we believe that the evidence and argument, which was ably presented to us during the thirteen days of hearings held in October and November of last year, and which explored fully all those issues and considerations, merits a wider audience than is usually present at a public hearing. For this reason, as well as to provide the necessary foundation for the discussion, conclusions and findings which follow, we have set out in sections 2 and 3 above a comprehensive summary and paraphrase of the principal points of evidence and argument adduced before us. It should be unnecessary to emphasize that the contents of sections 2 and 3 do not necessarily reflect the Board's views on the matters dealt with therein; they represent what we believe to be a fair and balanced account of what was placed before us, and we should like to stress that failure to mention any particular points of evidence and argument does not imply that such points were not considered and given due weight by us. All of the evidence and argument has been carefully considered and analyzed by us in arriving at our findings.

(b) The Board's Jurisdiction with respect to a Permissive Level of Earnings:

The evidence and argument presented with respect to the permissive level of the Company's earnings and the appropriate basis on which it should be authorized for telephone rate purposes will be dealt with in section 4(e) below. However, it appears appropriate at this point to clear up any misconceptions which may exist as to the Board's jurisdiction in fixing a level of permissive earnings and an appropriate basis or appropriate bases for computing such level for ratemaking purposes.

As we have often said before, the Board is a creature of statute and its powers to deal with matters brought before it for adjudication must be found within the provisions of the statutes conferring jurisdiction on the Board. The Board's jurisdiction with respect to telephone companies within the legislative authority of the Parliament of Canada flows from two Acts: the company's Special Act of incorporation and the Railway Act, (R.S.C. 1952, Chapter 234). The Company's Special Act has been described in page 370 of section 1 above; such Special Act, *inter alia*, provides for the approval of the Company's tolls or charges by the Board and provides that the Board may revise such tolls or charges. The principal section of the Railway Act which confers jurisdiction on the Board over the Company is section 380 which, by subsection (13) thereof, extends and applies the provisions of the Act to the Company, with the excep-

tion of certain specified sections, "insofar as reasonably applicable and not inconsistent with this section or the Special Act." Amongst the sections of the Act so extended and applied to the Company are most, but not all, of the sections of the Act dealing with traffic, tolls and tariffs, and one of the most important sections in this group is section 328(5) which applies to the Company and confers on the Board powers to "fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost..... may from time to time require....." Section 380(2) of the Act provides that all telephone tolls are subject to the approval of the Board; Section 380(3) provides for the filing of tariffs and prohibits the Company from charging tolls which have not been approved by, and filed in a tariff with, the Board; and Section 380(4) provides that the Board may deal with telephone tolls in the same manner as provided by the Act for freight tariffs, insofar as applicable and not inconsistent with the provisions of Section 380.

In addition to the powers of the Board described above, the Board has jurisdiction with respect to such matters as the acquisition, disposition and sale of capital stock, connections and contracts with other telephone systems, and leave to construct outside plant across highways, etc. It may therefore be said that the Board's jurisdiction over the Company is mainly one of fixing, determining and enforcing just and reasonable rates and charges, free from unjust discrimination or undue preference. The statutes confer no direct power upon the Board to fix a rate base and a rate of return on that base, or to fix a permissive level of earnings, either on a fiscal-requirements basis or on some other basis. Therefore any powers the Board has with respect to a permissive level of earnings must necessarily flow from its wide powers to fix, determine and enforce just and reasonable telephone rates and charges. We consider that we have such powers to deal with a permissive level of earnings, but that they are to be exercised as part of the ratemaking process, as a measure or test of the justness and reasonableness of the rate structure as a whole. This distinguishes the Board's powers with respect to a permissive level of earnings from those of some other regulatory bodies which have been referred to in evidence and argument, because the language of the statutes places primary emphasis upon the Board's powers and duties with regard to the rate structure. In this connection, it should be noted that all previous cases involving the Company's level of earnings arose out of applications by the Company for general increases in its telephone rates and charges. The Board, in determining those applications, tested and revised the new rate structures proposed by the Company in the light of what the Board found to be the legitimate revenue needs of the Company at that particular time. In other words, the permissive level of earnings, (i.e. the level which the Company *may* earn from a given rate structure, but which is *not* in any sense a guarantee of such earnings by the Board), is the Board's measure at a particular point in time, in the light of all the

circumstances prevailing at that time, and taking into account all relevant factors, of the justness and reasonableness of the rate structure as a whole. The Board's findings with respect to a permissive level of earnings, however, are not necessarily applicable to future times, when circumstances and conditions may be altogether different, and this point will be discussed further in section 4(c) below.

In our Notice of March 1, 1965, we said the following with respect to rates:

"The Board does not intend at this time to enquire into the propriety of existing rates. Existing rates, or any revision thereof that may be requested in consequence of the Board's findings, will be reviewed later, if necessary."

The exclusion of existing telephone rates from consideration during these proceedings, which covered all other features of the Company's affairs in a thorough and comprehensive manner, appears to have given rise to some concern on the part of some respondents and others who desired to go into the question of rates. Our decision on the motion of the British Columbia Federation of Labour to amend the terms of reference of our Notice of March 1, 1965 was given during the course of the hearings at Vancouver and is described in page 429 of the SUMMARY OF EVIDENCE, section 2(iii) above.

As noted earlier, the permissive level of earnings is a measure or test of the justness and reasonableness of the rate structure as a whole. The present proceedings, in addition to reviewing all the changes in the Company's affairs since 1958, are for the express purpose of determining what is now, under currently prevailing circumstances and conditions, a just and reasonable permissive level of earnings. In that aspect, the present proceedings are no different from those undertaken in the past upon application by the Company for increases in its telephone rates and charges. Until a determination has been made by the Board as to what permissive level of earnings is appropriate at this point in time, it is not possible to measure or test the current justness and reasonableness of the rate structure that has generally been in effect since 1958, just as in previous proceedings on the application of the Company for increases in its rates and charges, it was not possible to evaluate the justness and reasonableness of the rate structures proposed by the Company in support of the increases applied for, until a determination had been made as to a permissive level of earnings.

In this connection, it is important to appreciate that a Company's rate structure cannot be discussed, tested or evaluated *in vacuo*; there must necessarily be some base to which it can be related and from which relevant and appropriate criteria can be derived. Comparisons of the Company's rate structure

with those of other companies in Canada and the United States have little probative or persuasive value, unless it can be demonstrated that the facts and circumstances underlying each rate structure are comparable.

(c) Interpretation of the Board's 1958 Judgments:

In the period which has elapsed since our Judgments of July 18, 1958, (77 C.R.T.C. 303), and December 24, 1958, (48 J. O. R. & R. 555), which dealt with applications by the Company for general increases in its rates and charges, it has become apparent that certain misconceptions or misunderstandings exist concerning the Board's findings in those two Judgments which have given rise to uninformed or inaccurate statements concerning those findings, some of which have been given wide publicity.

To some extent, these misconceptions or misunderstandings relate to the Board's power to fix a permissive level of earnings and, insofar as they do, we have dealt with this feature in the preceding section 4(b). In the main, however, these inaccurate interpretations of our findings give, or seek to give, them a fixity or rigidity that was never intended and which is not supported, either by the Board's past practice or the language of the Judgments themselves.

It cannot be stressed too strongly, in view of these misconceptions, that the Board is regulating particular companies and not utilities in the abstract. The circumstances and conditions surrounding and affecting these companies differ and they are continually changing. The capital structure and its total amount changes from time to time; the embedded cost of debt capital changes as additional debt is acquired or as debt is refunded; the prevailing level of interest rates changes; the issue price, and hence the cost, of capital stock changes with changing market conditions; the various categories of expense change over time, both in amount and composition; and the various sources of revenue also change in amount and composition. The Board endeavours to be a practical Board and it must therefore take the facts of change into account. Consequently, its findings in the circumstances and conditions of a particular time, including the probable future trend of those circumstances and conditions, are not necessarily applicable to future times when circumstances and conditions may be altogether different.

In this connection, it should be pointed out that regulation is, and must be, to a large degree *ex post facto*. The Board has consistently held that its powers are regulative and corrective, and that they are not managerial. Thus, it is necessary for the Board to review the Company's actions from time to time, as it is doing in the present proceedings, and to take whatever corrective action for the future may be necessary, but the Board's powers do not envisage a retroactive adjustment of the actions of management. Regulation which is inflexibly committed to a rigid mathematical formula, fixed at one point in time,

would eventually so circumscribe the operations of a utility as to leave little or no room for the exercise of judgment, initiative or enterprise by management in the decisions it must make daily. This would constitute an unwarranted invasion of managerial discretion prejudicial to the efficient operation of the business and could soon redound to the detriment of the utility's customers.

(d) Discussion, Conclusions and Findings with respect to Certain Subsidiary Issues:

(1) Payments to Associated Companies:

The evidence and Argument on this issue has been summarized above, as follows:

The Company's evidence: section 2(i)(d);

The evidence of the Leader of the Official Opposition: section 2(ii), pages 426-427;

The evidence of the B.C. Federation of Labour: section 2(iii), pages 429-430;

The evidence of the Attorney General: section 2(iv)(a)(2);

The Argument of the Company: section 3(a)(4);

The Argument of the B.C. Federation of Labour: section 3(b)(1);

The Argument of the Attorney General: section 3(c)(3); and

The Company's Argument in Reply: section 3(d)(4).

The salient points of the Company's evidence are: that, on the basis of 1964 purchasing figures, about 50% of its purchases are made from Automatic Electric (Canada) Limited, but that it is a minority purchaser from that supplier since its purchases approximate only 25% to 30% of that supplier's sales; that such purchases from Automatic Electric mainly comprise exchange-switching and subscribers'-station equipment which must meet the Company's requirements of standardization and compatibility which have both economic and technical benefits for the Company; that standardization on a single supplier of such equipment has resulted in substantial savings through bulk-ordering techniques; that the Company pays less for its exchange-switching equipment than do other, non-affiliated purchasers of comparable equipment from Automatic Electric; that the Company pays no more than going prices for subscribers'-station equipment; that its requirements for radio and multiplex equipment are mainly purchased from a single supplier, Lenkurt Electric Company of Canada Limited, because of the technical superiority of that supplier's equipment; that about 20% of its 1964 purchases were radio and multiplex equipment for which Lenkurt's prices were identical to its prices to others; and that the Company's purchases from Lenkurt represent a minor portion of that supplier's sales. Both Automatic Electric and Lenkurt Electric are so-called associated companies, in that they

are wholly-owned subsidiaries of General Telephone & Electronics International Incorporated which is, in turn, a wholly-owned subsidiary of General Telephone & Electronics Corporation of New York, this latter company having voting control of Anglo-Canadian Telephone Company of Montreal which owns 50.14% of the common stock of British Columbia Telephone Company.

British Columbia Telephone Company has three special contracts with: (a) Canadian Telephones and Supplies Limited, (a wholly-owned subsidiary of Anglo-Canadian Telephone Company), covering installation, rearrangement and removal of central office equipment and some minor fabrication and repair services; (b) Dominion Directory Company Limited, (a wholly-owned subsidiary of Anglo-Canadian Telephone Company), covering principally the sale and compilation of "Yellow Pages" advertising in the Company's telephone directories, as well as certain services relating to printing contracts; and (c) G.T.&E. Service Corporation, (a wholly-owned subsidiary of General Telephone & Electronics Corporation of New York), covering the provision of technical and expert advisory services.

The main points of the Company's evidence with respect to these three contracts are: payment for the installation services of Canadian Telephones and Supplies was on the basis of direct installation costs and related overheads, plus a fee of 12% on such costs and overheads; that such payments were lower than those paid by other companies to the same contractor for similar services, in that such other companies paid an additional profit margin; that manufactured iron and wood products were purchased from this contractor only after a comparison of quotes from other suppliers indicated the contractor's prices were as low as, or lower than, such quotes; that the repair services of this contractor were carried out at a cost lower than the Company could obtain under any other arrangement; that, as to the directory contract, the Company's net directory revenues had increased by 116% between 1959 and 1964; that the Company had serious reservations as to its ability to secure an equivalent sales volume of directory advertising through its own personnel; that the Company's directory revenue per business station was generally higher than that of other major Canadian telephone companies; that the Company had achieved savings in cost through the directory contract; and that the Service Contract with the G. T. & E. Service Corporation was on a non-profit basis, the Company paying only a pro-rata share of the costs amounting to 5.22% of such costs for 1965.

The evidence of Mr. Dale-Harris, on behalf of the Attorney General, was to the effect that, although he had seen nothing to indicate excessive payments by the Company for goods and services, he had been unable to see the financial statements of the so-called affiliates and was therefore unable to say whether

these affiliates were earning profits at a rate higher than might be considered reasonable for a utility. At the same time, Mr. Dale-Harris said he would not necessarily limit such profits to what would be allowed to a public utility.

The Leader of the Official Opposition criticized the inability of the Board to look into the affairs of the supply companies, because the Board lacked the power to do so.

The evidence of the B. C. Federation of Labour included a statement that the fact that significant areas of activity were handled a subsidiary had hampered it in its analysis of the Company. The Federation urged that future reviews of the Company include all firms, irrespective of ownership, who were directly engaged in the provision of any aspect of telephone service.

In Argument, Counsel for the Company reviewed the Company's purchasing policy and the special contracts and said that the Company's evidence demonstrated the care it took in assessing the purchases it made and, further, that no grounds had been shown with respect to the special contracts which suggested there should be any change in circumstances.

The B. C. Federation of Labour expressed concern over the revenue paid by the Company to affiliated companies and argued that, as the profit levels of the affiliates could not be considered by the Board in setting fair permissive earnings for the Company, this made an attempt to fix fair permissive earnings no more than a charade. The Federation also felt that it might be well to investigate possible price fixing by affiliates to see if the law was being breached.

Counsel for the Attorney General stressed the importance of further enquiry into the propriety of payments to affiliates and urged that the Board request the Company to make available to it the financial statements of the affiliates, together with such other information as would enable the Board to say whether the profits derived from transactions with the Company represented more than a fair return on the capital employed. Counsel also challenged the need for separate directory and construction companies. As to the Service Contract, Counsel conceded very little criticism could be made as to its form. Provided that it was a non-profit service, that the percentage of costs paid by the Company was reasonable, and that the services received were comparable with those furnished to other members of the General Telephone System, Counsel thought the Contract had advantages to the Company, but he desired the Board to satisfy itself on these points.

In its Argument in Reply, the Company argued that the basis suggested by Counsel for the Attorney General for testing the adequacy of the Company's purchasing policy and the validity of the special contracts was completely wrong, in that there were enormous practical difficulties in allocating costs and revenues to a variety of customers and in determining appropriate rates of

return. Counsel for the Company stressed that the Company was a minority purchaser from Automatic Electric and Lenkurt and cited three cases which he said supported the fundamental proposition he was making: that where, as in the present proceedings, it was found that a manufacturing affiliate was doing business with the telephone company to a minority extent, then different considerations applied than in the case of Western Electric and the Bell System in the United States where there was really only one customer.

In the case of the Company's purchases from Automatic Electric (Canada) Limited, the evidence is clear and uncontested that the prices to the Company are as low as, or lower than, going prices to other customers of Automatic Electric and, further, that the Company does business with Automatic Electric to a minority extent, as measured by the approximate percentage its purchases are of Automatic Electric's total sales. In the case of the Company's purchases from Lenkurt Electric, the evidence is also clear and uncontested that the Company is a minority customer and that the Company pays the same prices for its equipment as do other customers for similar equipment purchased from Lenkurt Electric.

We are aware that the relationship between these two suppliers and the Company, within the corporate structure of the General Telephone System, is different from that which obtains between Western Electric and the Bell operating companies in the United States, and that it is also different from the relationship between The Bell Telephone Company of Canada and Northern Electric Company Limited. We are also aware that we have no power to direct either Lenkurt or Automatic Electric to furnish the Board with financial statements or other information and that the Company has no direct power to compel these two suppliers to furnish information to the Board. However, we have noted that, in the United States, information with respect to manufacturing subsidiaries has been furnished to regulatory bodies and the courts in connection with rate proceedings involving a General Telephone operating telephone company. We are seeking further information from the Company concerning these two suppliers in order to make such tests as will satisfy the Board further as to the reasonableness of the general level of the prices paid to Lenkurt and Automatic. Our findings with respect to the permissive level of earnings will accordingly be subject to the qualification that the Board be satisfied with the results of such tests.

As to the special contracts with Canadian Telephones and Supplies Limited, Dominion Directory Company Limited, and the G. T. & E. Service Corporation, we are satisfied at this time that the arrangements covered by them and the remuneration thereunder are not unreasonable.

(2) Pension Expense:

The evidence and Argument on this issue has been summarized above, as follows:

The Company's evidence: section 2(i)(e);
The evidence of the Attorney General: section 2(iv)(a)(3);
The Argument of the Company: section 3(a)(5);
The Argument of the Attorney General: section 3(c)(4); and
The Company's Argument in Reply: section 3(d)(5).

It is not necessary to repeat the details here since the chief point of contention is simply the treatment of the accumulated present value of prior service in the adoption of a current-funding plan at the beginning of 1965 in place of a terminal-funding plan.

The Company has stated that the accumulated value of prior service, in respect of employees of record on December 31, 1964, is \$22.1 million, a sum which it proposes to amortize over 25 years at \$1.4 million annually. The liability for the costs of such prior service has always been present and the only difference between the situation today and what it was formerly is the matter of funding that liability.

Mr. Dale-Harris has suggested, and Counsel for the Attorney General has urged, that, if there had been an excess accumulation of surplus by the Company since the Board's decision in the 1958 rate case, some part of the unfunded liability ought to be charged against such excess accumulation of surplus, leaving the balance to be charged against future operating costs. Mr. Dale-Harris has also stated that he did not quarrel with the various changes the Company had made in its Pension Plan up to the end of 1964 and he has also agreed that the period of 25 years over which the Company will amortize the unfunded liability is a reasonable period.

The issue has some similarities with that raised in the 1950 rate case involving The Bell Telephone Company of Canada wherein that company had, at the end of 1946, an unfunded liability of some \$18.9 million against its Pension Plan which it was amortizing over a period of 22 years. Respondents in that case took the position that this amount should be disallowed for ratemaking purposes and, in our decision, (67 C.R.T.C. 1), we said the following:

"In so far as the funding on an annual actuarial basis is concerned this is essential to place the scheme on a sound, actuarial basis and I think criticism would be justly due to those charged with the responsibility of administering the fund on behalf of the employees if this were neglected. Consequently I would consider it a proper charge against expenses in addition to the annual accruals."

The position of the Attorney General is predicated solely upon the Board finding that there has been an excess accumulation of surplus since our decision in the 1958 rate case. We do not make such a finding. As we have stated above in sections 4(b) and 4(c), the Board's findings take place at a particular point in

time in the light of all the facts and circumstances obtaining at that time, taking into consideration the immediate probable future trends; they do not necessarily apply to future times when circumstances and conditions may be altogether different. There is therefore no support for an inflexible commitment to particular amounts used by the Board at a particular time in computing, on a fiscal-requirements basis, the permissive level of earnings which the Board uses to assess the justness and reasonableness of the rate structure as a whole. The suggestion that, because the Board used an amount of \$1.5 million as representing the annual addition to surplus in the computations made in its Judgment of July 18, 1958, (77 C.R.T.C. 303), such dollar amount is to be rigidly applied, regardless of changes in the total capitalization of the Company, cannot be accepted as being reasonable and proper. The average percentage relationship between the annual additions to surplus and average invested capital, for the years 1959 through 1964, has, as Mr. Kennedy has pointed out on behalf of the Company, not exceeded the percentage relationship between the dollar amount of \$1.5 million used in the Board's 1958 computations and the Company's invested capital at the time the computations were made.

(3) Depreciation:

The evidence, Argument, and the motion by Counsel for the Attorney General on this issue has been summarized above, as follows:

Motion by Counsel for the Attorney General: section 2(i)(f), page 403;

The Company's evidence: section 2(i)(f);

The Argument of the Company: section 3(a)(6); and

The Argument of the Attorney General: section 3(c)(5).

This issue principally centres upon the motion of Counsel for the Attorney General of the Province of British Columbia to the effect that the Board retain an outside firm of depreciation experts to conduct a careful study of the Company's depreciation practices and rates, such firm to give evidence as to its findings and to be subject to cross-examination both by Counsel for the Attorney General and Counsel for the Company.

In support of this motion, Counsel for the Attorney General stated: that no such outside study had been made since 1952 or 1953, when the Company retained consultants for this purpose; that the Province had had neither the time nor the required assistance to make a proper and careful study of the Company's depreciation rates; that a public hearing was not a place for the examination of individual depreciation rates; and that, in Counsel's opinion, the Board did not have on its staff any persons with the required expertise to make such a study. The motion was supported by the B.C. Federation of Labour.

The position of the Company is: that it neither supports nor opposes the motion; that it has no doubts about the validity of its depreciation studies and

the individual and composite rates derived from such studies; that, as the Province has made no examination of the Company's depreciation studies and rates, it can have no conviction as to the necessity for an independent study; that the process of depreciation studies and the fixing of rates was a continuous one, not something done once and then adhered to for a long time; and that any competent, outside study would take at least a year and involve a very considerable expense to be borne by the public of Canada generally.

The Board has given very careful consideration to the motion, fully appreciating how substantial it is, and has reached the conclusion that it will not grant the motion for the following principal reasons:

(1) The Board considers that the Company's depreciation practices and rates should be viewed generally. The determination, from time to time, of the appropriate depreciation rate for a group of plant items, although based on studies, is in the final analysis a matter of judgment. Unless there are clear and compelling reasons for it to do so, the Board should not substitute its judgment, or that of a third party, for the judgment of the Company's management. Neither the Board nor the consultants would have to live with the results of such judgment, but the Company would be obliged to. Consequently, the Company's interest in the determination of its depreciation rates is a very real one, and its officers and staff include men who have lived and worked with the plant, the service life of which is crucial to a determination of the appropriate depreciation rates.

(2) In viewing this matter generally, the Board is not satisfied that a composite depreciation rate of less than 5% per year would be provident. An overall service life of 20 years for plant in service does not appear to be unduly conservative in the light of current technological changes. In this connection the Board notes that the Company filed during the course of the hearing an exhibit which showed the following composite depreciation rates for other telephone companies:

<u>Company and Year</u>	<u>Composite Depreciation Rate</u>
Bell Tel. of Canada (1964)	5.0%
Alta. Govt. Tel. (1965)	5.1%
Sask. Govt. Tel. (1965)	5.0%
Manitoba Tel. Syst. (1965)	4.2%

Only one of the above companies has a rate that is lower than 5.0%. Having in mind the limits to the meaningfulness of such a comparison of depreciation rates of other companies with different conditions and histories, the Board considers that the composite depreciation rate of the British Columbia Telephone Company of 5.3% in 1965 is not so great as to warrant committing public funds to a lengthy and expensive investigation by a consulting firm.

(3) Should the Board retain a consulting firm whose report is to be furnished to the parties to this proceeding, this would in all probability require a further hearing, thus deferring for many months the completion of our present enquiry to a time when much of the evidence which has thus far been adduced would have lost its significance for the purposes of that enquiry. As depreciation charges are the largest single category of the Company's expenses, it would not be practical to defer consideration of them to some future time.

(4) Savings in current depreciation expenses through the adoption of a lower composite rate, merely shift the burden of depreciation on to future subscribers to the benefit of present-day subscribers, if subsequent experience proves that a lower rate was inadequate. We do not consider that the Company's present composite rate, determined through continuing investigation and studies by qualified personnel of the Company, is sufficiently greater than the broad, general experience of the telephone industry in Canada to warrant granting the motion made to us.

We therefore do not grant the motion.

(4) Preferred Dividends on the Write-Up of Assets in 1927:

The evidence and Argument on this issue has been summarized above, as follows:

The evidence of the Attorney General: section 2(iv)(a)(6);

The Argument of the Company: section 3(a)(9); and

The Argument of the Attorney General: section 3(c)(6).

The substance of Mr. Dale-Harris' views on this matter appears to be that, if the write-up of \$4 million in 1927 as the result of an appraisal had not been fully amortized, then there was a dividend charge of \$240,000 annually that was not justified as being recoverable in subscribers' rates. If, however, the write-up had been fully amortized, then to that extent past depreciation charges were higher than they would otherwise have been.

Counsel for the Company has stated that the write-up has been fully depreciated and has long since disappeared from the plant account. He has also stated that, if the assets had been shown to have the value by the appraisal, it was surely proper to depreciate them on the basis of that value.

Counsel for the Attorney General argued that, if there were to be a change in the method used by the Board in fixing a permissive level of earnings, then the Board ought to satisfy itself completely that the \$4 million write-up, represented by an issue of preferred shares in the Company's capital structure, was one that should be permitted a rate of return. He thought it was fairly universal for regulatory commissions to use historical cost in determining a rate base and to refuse to allow a write-up of assets; on this basis, it was possible that the subscribers should not bear any part of the annual dividends of \$240,000 on the preferred stock in question.

The matter was fully explored in the course of the 1950 rate hearings. We have examined the transcript of evidence taken during those hearings and have noted that the Company's evidence at that time was that the assets involved in the write-up had been completely cleared from the Company's books by 1949 and that the Income Tax authorities took the view that the plant which had been written up had been fully retired. The Company's evidence at that time also stated that depreciation had been applied to the assets in question on the basis of actual cost, and not on the basis of the write-up, because the Income Tax authorities allowed depreciation only on the basis of actual cost. Upon retirement of these assets, the Company had charged the write-up portion to its depreciation reserve.

We have also reviewed our findings on this matter, as set out in our Judgment of September 21, 1950, (66 C.R.T.C. 7), which findings were quoted by Counsel for the Company in Argument. We see no reason to change those findings and we hereby affirm them. It is clear that the issue of preferred shares in question now represents tangible assets in use in the business and such assets are thus entitled to a return.

(5) Share-Issue Expense:

The evidence and Argument on this issue has been summarized above, as follows:

The Company's evidence: section 2(i)(h), pages 412-413;
The evidence of the Attorney General: section 2(iv)(a)(1);
The Argument of the Company: section 3(a)(10);
The Argument of the Attorney General: section 3(c)(7); and
The Company's Argument in Reply: section 3(d)(6).

In our Judgment of July 18, 1958, (77 C.R.T.C. 303), we said the following with respect to share-issue expense:

"In arriving at the amount which it was estimated would be available for transfer to earned surplus for the year 1958, the Company included provision for an amount of \$400,000 in respect of share issue expense. Witnesses for the Applicant and for the Respondents agreed that for accounting purposes share issue expense should properly be treated as a charge against earned surplus rather than against current earnings and an amount of \$362,284 was, in fact, handled in this way by the Company, as shown in its 1957 Annual Report. In his evidence for the Respondents Mr. Skinner expressed the view that since share capital is raised only irregularly this treatment would also be proper for rate making purposes and that it would be inequitable to set rates on the basis of recovering the costs of a share issue in any single year. He felt that the costs involved should, for rate making purposes, be merely one of the factors to be borne in mind in determining a reasonable surplus for the Company. The Company, on the

other hand, contended that the experience of the last five years, coupled with the capital expansion programme planned for the next few years, justified inclusion of the amount in question as a charge against operations for the year on which rates were to be based.

"In the circumstances of this particular case it seems to the Board that, for rate making purposes, it is more appropriate to allow such an item to be considered as a charge against earnings, rather than to have it obscured in the permissive annual surplus. At such time as the Company's capital expansion programme diminishes, steps will be taken by the Board to eliminate any such item from allowable expenses. The Board therefore finds that \$400,000 is a reasonable amount to allow as a charge against earnings for share issue expense at this time."

During cross-examination in the course of the present proceedings, Mr. Kennedy for the Company stated that share-issue expense had averaged some \$330,000 per year over the seven-year period 1958 through 1964 and that such expense would differ from year to year. He declined to accept a suggestion that the Company's experience to date would provide some justification for amortizing share-issue expense over a period of years. At the time of the hearing in Vancouver, share-issue expense for 1965 had amounted to about \$1.3 million, some \$600,000 of which represented the expense of issuing preferred shares in April, and some \$720,000 of which was accounted for by the following expenses incurred in redemption of an issue of 6¼% preferred shares: the redemption premium of 5% and the 20% tax on the redemption cost.

Mr. Dale-Harris, witness for the Attorney General, pointed out that, as share-issue expense had been significantly less than the annual allowance of \$400,000 in most years since 1958, this had had a marked effect on the net annual additions to surplus. He took the position that the fair way to deal with the matter of share-issue expense was to amortize it over a period of some 25 to 40 years. He also said there were two choices in dealing with the question of share-issue expense: (1) To treat it as the shareholders' responsibility, the appropriate costs being recognized in the allowed rate of return; or (2) To treat it as a deduction from annual profit after dividends, in order to arrive at the net annual increment to surplus. Mr. Dale-Harris thought that the Board had adopted the latter alternative. As to the premium on the redemption of preferred shares and the tax on that premium, Mr. Dale-Harris conceded during cross-examination that these would have to be considered along with the resulting reduction in the rate of preferred dividends. He agreed that there would be a long-term benefit to subscribers in reduced dividend expense and that such benefit could not be obtained without incurring the expense of issuing new preferred shares and redeeming the old.

In Argument, Counsel for the Company said there was no basis in logic for the amortization approach, but there was every logic in the Board's previous practice of taking cognizance of the amount of share-issue expense the Company had incurred during the period under review and then fixing an amount to meet this particular expense item. Variations in this expense from year to year provided no reason for a change to an amortization approach; the subscribers had not been deprived of anything, they had not borne any additional expense they would not otherwise have had to bear, there had been no change in telephone rates, and there was no prospective increase in such rates, because of this particular expense item. These considerations, added Counsel, applied only to a fiscal-requirements approach. Under a return-on-total-invested-capital approach, or under a return-on-rate-base approach, the problem would not arise until consideration was being given to the allowable return and an extra percentage amount for this would have to be included in the percentage rate of return. Counsel referred to the passages from the Board's 1958 Judgment in this matter which have been quoted above and noted that there was no prospect of the capital expansion programme diminishing for some time ahead. Obviously, in Counsel's view share-issue expense and surplus were so closely interrelated that one item could not be changed without the other and this was a more logical approach, so long as the fiscal-requirements method was used.

Counsel for the Attorney General submitted that the method followed by the Board in its 1958 Judgment had proved impractical and that the only equitable system for meeting the irregular and varying charges of share-issue expense was one of amortization over a proper period of time. He noted that Counsel for the Company had said that it would be six-and-one-half years before any benefit would be realized from the preferred-share redemption, yet he had seemed opposed to amortization of the expense over even this short period of time. As to the tax on the premium paid for redemption of preferred shares in 1965, this should be paid by the shareholder for whose benefit it was incurred. Counsel for the Attorney General said the problem of share-issue expense was exactly the same whether a fiscal-requirements or a return-on-total-capital basis was used; whatever the basis, the essential problem was how to spread the cost equitably over a reasonable period of time. The subscriber, he felt, had to be in a position to judge the matter from year to year and determine whether or not he would come to the Board and ask for a reduction in rates; this could be done only if share-issue expense were treated in the correct manner.

In Argument in Reply, Counsel for the Company emphasized that the tax on the premium paid on redemption of the preferred shares was a requirement of Canadian income-tax laws that could not be avoided by the Company, because the benefit of the redemption could not be otherwise obtained. It was an expense that should be regarded in the same way as any other tax expense. There was

no logic in suggesting that some portion of expense should be attributed to surplus and that some other portion should be a charge against revenues. If one were to divide expenses in this way, then equally there would have to be a division of benefits, a suggestion that was just as unthinkable as the first one.

With respect to what Mr. Dale-Harris has described as the marked effect on net annual additions to surplus resulting from the fact that share-issue expense has been less than the amount of \$400,000 allowed by the Board's 1958 Judgment, we have already observed in connection with Pension Expense, (section 4(d)(2) above), that the actual average percentage relationship between the annual additions to surplus and average invested capital, for the years 1959 through 1964, has not exceeded the percentage relationship between the dollar amount of \$1.5 million used in the Board's 1958 computations and the Company's invested capital at the time the computations were made. Consequently, the actual deviations of share-issue expense from the annual amount of \$400,000 have not resulted in any additional or unreasonable burden on subscribers.

We do not agree that the method we followed in our 1958 Judgment has proved so impractical as to warrant the amortization of share-issue expense over some 25 to 40 years. Such expense cannot be considered in isolation from the allowable surplus and, as we have said, the actual results do not show any unreasonable increase in the allowable surplus found proper and reasonable in 1958. As to the specific question of the expenses incurred in respect of the redemption of the issue of 6¼% preferred shares in 1965, we do not agree that there should be either an amortization of this expense over some period of time or that there should be some hypothetical division of such expense as between subscribers and shareholders. Share-issue expense in respect of common-share issues is not so divided and everyone recognizes that such expense is a legitimate and proper cost to be allowed in the rates charged by the Company; we see no reason to treat the expenses of the redemption of the preferred shares, which redemption will result in lower interest costs, in any different manner.

The matter of future share-issue expense will be dealt with in connection with the permissive level of earnings, (section 4(e) below).

(6) Charitable Donations:

The evidence and Argument on this issue has been summarized above, as follows:

- The evidence of the Attorney General: section 2(iv)(a)(4);
- The Argument of the Company: section 3(a)(11);
- The Argument of the Attorney General: section 3(c)(8); and
- The Company's Argument in Reply: section 3(d)(7).

The essence of this issue is simply who should bear the expense of the Company's charitable donations: the Company's subscribers or the Company's shareholders? In other words: are charitable donations a proper category of expense which a regulatory body should allow to a utility when such donations are reasonable and proper both as to recipient and as to amount? Counsel for the Company argues that they are a proper category of expense and Counsel for the Attorney General argues that they are not.

We have given a great deal of thought and consideration to this matter, bearing in mind that some regulatory bodies have ruled that charitable donations are not allowable expenses, while others have ruled that they are, provided both the objects and the amounts of such donations are reasonable and proper. We are compelled to the conclusion that a public utility does not live in isolation from current business practices of the large, unregulated industrial sector of the economy and that it is obliged, in company with that sector, to contribute reasonable and proper amounts as charitable donations. We are not impressed with the suggestion that charitable donations, when they are allowed as an expense of doing business, represent some kind of tax or involuntary additional charitable donation by subscribers. We consider that few prices, if any, do not contain an element attributable to the cost of charitable donations by companies and that this is one of the facts of present-day business life. Consequently, we find that charitable donations are allowable expenses for the Company, provided they are reasonable and proper in amount and reasonable and proper as to the recipient. We are, however, somewhat concerned that the overall level of contributions should be limited to an amount which is not excessive, particularly as the Company's charitable donations have been increasing in recent years. We therefore consider that, for future years, the Company's charitable donations should not exceed an amount which in total is equivalent to 1% of net operating income. This does not mean that the Company is rigidly bound to that percentage for any individual year, but it does mean that it must so arrange its charitable donations that, over a five-year period, they will not exceed an average of 1% of net operating income, (i.e. line 5 of BOARD TABLE I), and we so rule. In making this ruling, we are also mindful of the fact that, as indicated in BOARD TABLE I, the source of charitable donations is the gross amount of the Company's "Other Income".

The foregoing expresses the views of Commissioners Irwin and Kirk. The Assistant Chief Commissioner, however, is of the opinion that charitable donations should not be allowed as expenses for ratemaking purposes, and thus become a charge on the subscribers, but should be borne by the Company's shareholders.

(7) Income Tax and Capital Cost Allowances:

The evidence and Argument on this issue has been summarized above, as follows:

- The evidence of the Company: section 2(i)(h), page 412;
- The evidence of the Attorney General: section 2(iv)(a)(6);
- The Argument of the Company: section 3(a)(12);
- The Argument of the Attorney General: section 3(c)(9); and
- The Company's Argument in Reply: section 3(d)(8).

The issue is solely concerned with the results flowing from a decision of a superior appellate tribunal, the Governor-General in Council, on an appeal from a decision of this Board. The decision of the Governor-General in Council is set out in Order-in-Council P.C. 1958-602.

Obviously the Board cannot determine this issue which involves the decision of a superior appellate tribunal on an appeal from a decision of this Board. All that the Board can do is to set out the evidence and Argument presented to it on this issue, which it has done at length above, and perhaps to add the observation that all parties who made representations to the Board on the matter during the course of the present proceedings are agreed that the results which flowed from the decision expressed in Order-in-Council P.C. 1958-602 have been to the detriment of the Company's subscribers.

(e) The Permissive Level of Earnings and the Bases for its Assessment:

The evidence and Argument on this issue has been summarized above, as follows:

- The evidence of the Company: sections 2(i)(h), pages 407-411; 2(i)(i); and 2(i)(j);
- The evidence of the B.C. Federation of Labour: Section 2(iii), pages 429-430;
- The evidence of the Attorney General: section 2(iv)(c);
- The Argument of the Company: sections 3(a)(8); 3(a)(13); and 3(a)(14);
- The Argument of the B.C. Federation of Labour: section 3(b)(3);
- The Argument of the Attorney General: sections 3(c)(10); 3(c)(11); and 3(c)(12); and
- The Company's Argument in Reply: sections 3(d)(10); 3(d)(11); and 3(d)(12).

There is no necessity to review it in detail here for the purpose of our findings.

The main outlines of the positions taken by the Company and respondents are as follows. The Company states it adopts, as a range of reasonableness, the range of permissive earnings developed by its witness Dr. Nicholson: namely,

6.5% to 7.25% on total invested capital. It seeks from the Board two findings: (1) that it would be appropriate to assess the reasonableness of the Company's earnings by reference to the return on total invested capital; and (2) that, on the evidence before the Board, the Company's earnings at the present time are reasonable. The Company does not advocate that the Board approve a specific return, a specific range of return, or a specific amount of annual addition to surplus. The position of the Attorney General is that the Company's rate of return at the present time is adequate, but that if there is any further improvement in the rate of return, the benefits of that improvement ought to be shared with the subscribers. Counsel for the Attorney General said that either method, fiscal-requirements or rate-of-return-on-invested-capital, would be acceptable, but he did not see any advantage that would justify a change in the Board's long-standing practice of using a fiscal-requirements basis. He thought it might be advisable to fix the allowance for surplus as a percentage of total invested capital and, if that were done, no objection could be made to the expression of permissive earnings for equity as a percentage, but he did not think it was really necessary to make that particular change. Whatever method was adopted by the Board, said Counsel for the Attorney General, it was essential that the Board be ever vigilant to ensure adherence to its Judgment by the Company and that the Company understand that, if it exceeded the permissive level fixed by the Board, the Company would be expected to reduce its rates to the extent of the excess earnings. Counsel for the Attorney General also said that he was suggesting that any increase by the Company in its dividend payments ought to be approved by the Board for ratemaking purposes.

The considerations upon which the respective positions of the Company and the Attorney General are founded are set out in the main in the summaries of evidence and Argument and they have all been given due weight by us.

The Company seeks an assessment of the reasonableness of its current earnings by reference to a rate-of-return basis, rather than by reference to a fiscal-requirements basis which it says has had the effect of conveying a sense of rigidity that was probably not intended, but it does not advocate that the Board fix a specific rate of return or a specific range of rates of return. The Attorney General, on the other hand, does not object to the use of a rate-of-return basis, but he sees no compelling reason for the Board to change to this from its previous use of a fiscal-requirements basis. We are persuaded that the computation of a permissive level of earnings with which to test the justness and reasonableness of the rate structure as a whole should take the form of a percentage of the Company's total average capitalization, but we do not accept the suggestion of the Company that the Board should not fix either a specific rate of return or a specific range of rates of return and our reasons for this have been set out in detail in our discussion in section 4(b) above. This does not mean,

however, that the Board would necessarily accept the actual total average capitalization as it exists from time to time, since the Board considers it should be free to make any adjustment in such capitalization that it considers proper. In the present proceedings, the Board accepts the actual total average capitalization as the basis for its computations, subject to certain qualifications which will be set out later herein.

With respect to the question of whether the rate of return should be a fixed percentage or a reasonable range of defined percentages, the Company has advocated a test of its earnings by reference to Dr. Nicholson's suggested range of 6.5% to 7.25% on total average capitalization. The Attorney General has said that current earnings are adequate, but that if there were to be any further improvement in the rate of return, the benefits of that improvement ought to be shared with subscribers. The Company's rate of return on total average capitalization for 1964 was 6.4% and it rose to 6.6% for the year 1965. As we have pointed out in section 4(c) above, the circumstances and conditions affecting the Company are not static and are continually changing. We have also said that the Board tries to be practical and to take the facts of change into account. We have given a great deal of thought to this matter and we have reached the conclusion that, in practical terms, reasonableness cannot be expressed as a fixed point from which there can be no deviation whatsoever. We therefore propose to use a range of percentage earnings on total average capitalization, but it will be a relatively narrow range and its boundaries will be precisely defined.

As to the percentage amount of total average capitalization that would be just and reasonable under current and immediately foreseeable conditions as a permissive level of earnings, there is at least a large measure of agreement between the Company and the Attorney General, in that both recognize the adequacy of the 1964 earnings level of 6.4%.

Upon careful consideration it is our view, in the light of all that has been placed before us, in the light of the experience of the past eight years, and in the light of current and immediately foreseeable conditions, that the overall rate of return on the Company's total average capital outstanding, as defined in BOARD TABLE II-A, should lie within a range of from 6.2% to 6.6%, fractions of less than 0.05% to be dropped in the computation and fractions of 0.05% and higher to be raised up to the next tenth of one per cent in the computation. In fixing this range of rates of return, we have recognized the costs of future share-issue expense. Such rates of return are designed to cover the Company's costs of capital, share-issue expense and surplus. We do not accept the submission that this Board should approve for ratemaking purposes the decisions of the Company's Board of Directors as to the dividend rate. Any increase in dividend rate would reduce the amount available for surplus, but it would not result in a greater burden on subscribers.

56 B.T.C.

We therefore find that the Company's rate structure as a whole is just and reasonable in that it does not produce earnings resulting in a return for the Company on its total average capitalization greater than 6.6%. Such a finding is not to be construed as an entitlement to a return of 6.2% to 6.6% or as a guarantee of upward adjustments in the rate structure to permit the earning of a return within that range; it is simply the Board's measure at this time of the justness and reasonableness of the Company's present rate structure as a whole. Neither does such a finding mean that adjustments of a routine nature in the rate structure may not be submitted to the Board from time to time for its consideration and approval, as circumstances warrant so doing, but it does preclude any general upward adjustments in local-exchange rates, other than those particular adjustments that may be required as a result of the normal regrouping procedures established by the Board in respect of changes in the size of local-exchange service areas.

The Company earned 6.6% on its total average capital outstanding for the year 1965 and it has accordingly reached the maximum of the permissible range we have found to be just and reasonable at this time. Should the Company's earnings exceed that maximum, the Board will require the Company to furnish the Board with its proposals for reductions in the rate structure designed to bring the Company's earnings back within the permissible range we have found to be reasonable at this time.

All of the foregoing findings are subject to the qualification that the Board will be satisfied as to the reasonableness of the general level of the prices paid by the Company to Lenkurt Electric and to Automatic Electric, which qualification has been referred to in our discussion in section 4(d)(1) above.

(sgd.) H. H. GRIFFIN

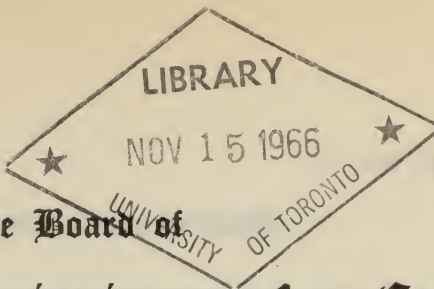
(sgd.) W. R. IRWIN

(sgd.) A. S. KIRK

Ottawa,

May 4, 1966.

56 B.T.C.



can. The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the review respecting The Bell Telephone Company of Canada set forth in the Board's Notice dated September 22, 1964.

Case 955.176
May 4, 1966

La version française de ce Jugement paraîtra aussitôt qu'elle sera terminée et le numérotage des pages du texte en français suivra l'ordre numérique en cours à la dernière page du Jugement en anglais.

The French version of this Judgment will follow this English version as soon as it has been translated. Page numbers for the French version will follow in sequence of the last page number of the English version.

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The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the review respecting The Bell Telephone Company of Canada set forth in the Board's Notice dated September 22, 1964.

Case 955.176
May 4, 1966

Heard at Ottawa, May 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 26, 27 and 31 and June 1, 2, 3, 16, 17, 18, 21 and 29, 1965.

BEFORE:

ROD KERR, Q.C.,	Chief Commissicner.
H.H. GRIFFIN,	Assistant Chief Commissioner.
J.E. DUMONTIER,	Deputy Chief Commissioner.

APPEARANCES:

J.L. O'BRIEN, Q.C.	}	<i>for The Bell Telephone Company of Canada.</i>
P.C. VENNE, Q.C.		
J.T. WEIR, Q.C.		
G.A. ALLISON, Q.C.		
J. de GRANDPRE, Q.C.		
R.S. O'BRIEN		
LOVELL C. CARROLL, Q.C.		<i>for The Canadian Federation of Mayors and Municipalities, Association of Ontario Mayors and Reeves, Ontario Municipal Association, Union of Quebec Municipalities (Union des Municipalités de Québec)</i>
		<i>and</i>
		<i>the following Municipal Corporations: Arvida; Aylmer; Beaconsfield; Belleville; Beloeil; Blind River; Bracebridge; Brantford; Capreol; Carleton Place; Chatham; Charlton; Collingwood; Dryden; Duberger; East York Township; Elmira; Essex; Exeter; Falconbridge Township; Forest Hill; Fort Frances; Gananoque; Galt; Gravenhurst; Guelph; Hamilton; Harrow; Harwick Township; Hawkesbury; Hearst; Hespeler; Kemptville;</i>

Kenora; Kitchener; Kingston;
 Lachine; Leamington; London;
 London Township; Long Branch;
 Loretteville; Lucerne; Markham
 Township; Massey; Mimico; Mitchell;
 Muskoka Township; Mount Royal;
 Newmarket; New Toronto; Niagara
 Falls; Niagara-on-the-Lake; North
 Bay; North Gwillimbury Township;
 Oliver Township; Onaping Improve-
 ment District; Orangeville; Ottawa;
 Owen Sound; Paris; Parry Sound;
 Penetanguishene; Picton; Pickering
 Township; Port Alfred; Port Colborne;
 Preston; Quebec; Renfrew; Ridgetown;
 Richmond Hill; Rimouski; Rutherford
 and George Island Township; St.
 Catharines; St. Thomas; Saint-
 Laurent; Saint-Michel; Sandwich
 East Township; Sandwich South;
 Sarnia; Scarborough Township;
 Shawinigan; Stoney Creek; Stouffville;
 Strathroy; Streetsville; Sudbury;
 Swansea; Tecumseh; Thorold;
 Thorold Township; Toronto; Town-
 ship of Toronto; Trenton; Vaughan
 Township; Verdun; Waterloo Town-
 ship; Welland; West Gwillimbury
 Township; Weston; Widdifield
 Township; Willoughby Township;
 Windsor; Woodstock.

R.A. SMITH, Q.C. }
 and }
 J.G. TORRANCE }
 ARCHIBALD ROSS }
 FRANK W. CALLAGHAN }
 and }
 C.D.S. ROBERTSON }
 E.G. ADAMS }

BRUCE MAGNUSON

for Industrial Wire and Cable Co. Ltd.

representing Consumers Gas Company

for the Attorney General of Ontario

*representing the United Electrical,
 Radio and Machine Workers of
 America*

*representing the Communist Party of
 Canada*

G. PRESSEAU

*representing the International
Municipal Signal Association and
L'Association de Signalisation
Municipale de Québec, Incorporée*

JUDGMENT

BY THE BOARD:

1. THE SCOPE AND NATURE OF THE BOARD'S REVIEW OF THE COMPANY'S ANNUAL EARNINGS AND OTHER MATTERS:

The Bell Telephone Company of Canada was incorporated by special Act of the Parliament of Canada, 43 Victoria (1880), Chapter 67, which Act has been amended and enlarged from time to time by the following Acts:

45 Victoria	(1882)	Chapter 95
47 Victoria	(1884)	Chapter 88
55-56 Victoria	(1892)	Chapter 67
57-58 Victoria	(1894)	Chapter 108
2 Edward VII	(1902)	Chapter 41
6 Edward VII	(1906)	Chapter 61
10-11 George V	(1920)	Chapter 100
19-20 George V	(1929)	Chapter 93
11-12 George VI	(1948)	Chapter 81
6 Elizabeth II	(1957-8)	Chapter 39
13-14 Elizabeth II	(1964-5)	Chapter 69

The Company first became subject to the jurisdiction of this Board on July 13, 1906.* In the course of the next 21 years, the Company was before the Board on four occasions seeking general increases in its rates and revenues and its corporate affairs were subjected to detailed public scrutiny and examination in the course of public hearings. Judgments on these four applications by the Company were rendered in 1919, 1921, 1922 and 1927.** By the end of 1927, the Company operated some 668,000 telephones and had attained gross annual operating revenues of about \$33 million.

Throughout the succeeding period of 22 years, ending with the year 1949, the Company's basic rate structure remained stable and no general increase applications were heard by the Board. The number of Company telephones in service increased to about 1.6 million and the Company's gross annual operating revenues reached the level of \$107.8 million.

* - 6 Edward VII (1906) Chapter 42, An Act to Amend the Railway Act, 1903, and 6 Edward VII (1906) Chapter 61, An Act respecting the Bell Telephone Company of Canada, both assented to July 13, 1906.

** - 25 C. R. C. 1; 27 C. R. C. 232; 27 C. R. C. 277; and 34 C. R. C. 1.

The nine-year period from 1950 through 1958, however, was one of unprecedented and radical change. The number of Company telephones grew rapidly to reach a total of 3.1 million, almost doubling in nine years, an increase one-and-one-half times as great as that achieved in the previous 22 years. To support this tremendous expansion in telephone facilities, the Company's total annual average capital almost tripled, from \$337.9 million in 1949 to \$1,011.5 million in 1958. During the same nine-year period, the Board held six public hearings, totalling 82 days, to deal with four applications by the Company for general increases in its rates and its level of earnings. These hearings afforded a continuing opportunity for a full public examination and review of all aspects of the Company's operations relevant to the Board's statutory duty to ensure just and reasonable telephone rates, free from unjust discrimination or undue preference. At the close of this nine-year period, the Company's gross annual operating revenues had more than tripled to some \$328.8 million. Judgments with respect to these four increase applications were issued in 1950, 1951 and 1958.***

In the six years since our last Judgment, dated October 10, 1958, the Company has experienced further rapid growth. The number of telephones in service reached a total of 4.3 million by the end of 1964 and gross annual operating revenues increased to a level of \$542.8 million. At the same time, a number of other changes occurred in the Company's situation during this six-year period. In the light of all these changes, the Board accordingly considered that a further public examination of the Company was warranted in the public interest and it therefore issued the following Notice, dated September 22, 1964:

"In the period since the Board last authorized general adjustments in telephone rates and charges in the tariffs of The Bell Telephone Company of Canada on October 10, 1958, the Company has regularly supplied information to the Board concerning its annual earnings and other matters.

"The periodic studies made by the Board's staff and the information supplied by the Company from time to time show that there have been certain changes in capital investment, revenues, expenses, debt charges, dividend payments and retained earnings of the Company, and it would appear to be in the public interest that the Board should hold a review, by way of public hearing to consider the capital investment, revenues and expenses, debt charges, dividend payments and retained earnings of the Company and the permissive level of the Company's earnings and the basis on which such permissive level may be authorized for telephone rate purposes.

*** - 40 J. O. R. & R. 159; 67 C. R. T. C. 98; 68 C. R. T. C. 127; 68 C. R. T. C. 359; 76 C. R. T. C. 267; and 78 C. R. T. C. 1.

"The Board will, therefore, hold a hearing at Ottawa for the purpose of such review and for the purpose of making such findings and issuing such orders or taking such other action as the Board may consider proper.

"The Board does not intend at this time to enquire into the propriety of existing rates. Existing rates, or any revision thereof that may be requested in consequence of the Board's findings, will be reviewed later, if necessary.

"The Bell Telephone Company of Canada is hereby made a party to the proceedings and the Board requests that any other interested party that intends to appear at the hearing and take part therein shall file with the Board's Secretary, not later than October 30, 1964, a written appearance stating such intention and shall forward a copy thereof to P.C. Venne, Q.C., General Counsel of the Company at his office, at 1050 Beaver Hall Hill, Montreal 1, P.Q.

"Within thirty days after the date fixed for filing appearances the Company shall file with the Board and serve upon all intervening parties who have filed written appearances a statement of the reasons which it intends to submit to the Board in support of the permissive level of earnings which the Company may claim to be just and reasonable in the circumstances and the basis on which such level of earnings should be authorized.

"Within thirty days of the service of the said statement by the Company, or within such further or other delay as the Board may direct, the said intervening parties shall file an answer to the said statement of the Company, including therein any relevant submissions which would assist the Board during the course of the hearing, by mailing or delivering the said answer to the Secretary of the Board and a copy thereof to P. C. Venne, Q. C., General Counsel of the Company at his office, at 1050 Beaver Hall Hill, Montreal 1, P. Q.

"After receipt of the said answers of the intervening parties, the Board may give directions concerning any other information which the Board may require of the Company or of the intervening parties as relevant to the investigation, and fix the date and place of hearing and the date at which the Company and the said intervening parties shall supply memoranda covering the main points of evidence then intended by them for presentation to the Board during the course of the said hearing."

Copies of the Notice were forwarded to all municipalities or other, similar governing bodies within the areas served by the Company in the Provinces of Ontario and Quebec, as well as to the Canadian Federation of Mayors and Municipalities, and other interested parties.

Public hearing of these matters commenced at Ottawa on May 4, 1965 and was completed on June 29, 1965, after 22 days of hearings, including Argument by Counsel.

As stated earlier, the Company's tolls have been subject to the approval of the Board since 1906. The last general increase in such tolls was granted by the Board's Order No. 95930, dated October 10, 1958, following the Board's Judgment of the same date which authorized a permissive level of earnings for the Company of \$2.43 per share. In the instant proceedings, the Company has submitted that it should be permitted to earn an overall rate of return of 7% on its average total capital outstanding, which return would provide it with a return of about 8½% on its average common equity capital.

Before dealing with the main, substantive issues involved in this review of the Company's affairs which was undertaken by the Board of its own motion, the substance of the evidence of all parties participating in the review is summarized below. Failure to mention any particular point of evidence or argument in this summary does not imply that such points were not taken into account by the Board in arriving at its decisions. The Board has given full weight and consideration to all the evidence placed before it, both in the form of numerous exhibits and in the oral testimony and argument which occupied nearly 3,900 pages of transcript.

2. SUMMARY OF EVIDENCE AT THE HEARING

(i) AS ADDUCED BY THE COMPANY

The principal reasons submitted by the Company in support of the permissive level of earnings which it claims to be just and reasonable in the circumstances, and the basis on which it submits such level of earnings should be authorized, are summarized under the following headings which also include the Company's evidence with respect to all the major changes which have occurred in its circumstances since the end of 1958:

- (a) The Income Statement (1959 through 1964).
- (b) Review of Operations, Revenues and Expenses (1959 through 1964).
- (c) Construction Expenditures (Actual for 1959 through 1964, and Estimated for 1965 through 1969).
- (d) The Service Agreement with the American Telephone and Telegraph Company.
- (e) The Company's Pension Plan.
- (f) Depreciation and Changes in Depreciation Accruals.
- (g) General Economic Review and Forecast.
- (h) The Company's Relationships with Northern Electric Company Limited.
- (i) The Fair Return on the Company's Total Capital.
- (j) Investor Appraisal of the Company.
- (k) The Company's Earnings Requirements.

The tables which are included in this summary were prepared by the Board's staff from Exhibits filed by the Company during the course of the hearing. Each table shows the sources from which it was compiled.

(a) The Income Statement (1959 through 1964)

A simplified, comparative income statement for the six complete years since the Board authorized the present permissive level of earnings is set out in BOARD TABLE I below. Total capital invested in the Company, according to the Company's own definition of invested capital, total income, net income per share, and the percentage return on total invested capital, for the seven years 1958 to 1964, is shown in BOARD TABLE II below.

Revenues from long-distance service rose more rapidly than those from local service, from 32.1% of Total Operating Revenues in 1959 to 34.6% of such revenues in 1964. Total Operating Expenses increased less rapidly than Total Operating Revenues during the six-year period ended 1964, but there were some changes in the relative proportions of some operating expenses. Until 1963, maintenance was the largest expense, but beginning with 1964, depreciation expense has supplanted it as the largest expense category.

The amounts paid to the American Telephone and Telegraph Company under the service contract rose from \$3.5 million in 1959 to \$5.1 million in 1964. During the same period, the Bell Company's holdings of Northern Electric stock increased from 90% to 100% of the shares outstanding and the annual dividend return on such shares was increased from \$5.00 per share to the current rate of \$6.50.

Between 1959 and 1964, the cost to the Company for new bond issues in Canada has ranged from 5.46% to 6.43% after expenses. Two United States' issues were made at slightly under 5%. Interest and taxes both increased at faster rates than revenues to offset to some extent the improvement in net operating revenues.

BOARD TABLE I
Income Statement of The Bell Telephone Co. of Canada 1959-1964

Line	CATEGORY	Millions of \$ (rounded to nearest \$100,000)						Average Annual Increase 1964 over 1959
		1959	1960	1961	1962	1963	1964	
1.	Total Operating Revenues	376.6	404.8	433.7	471.0	503.0	542.8	7.6%
2.	Total Operating Expenses	256.2	270.4	282.5	301.9	325.8	343.4	6.0%
3.	Net Operating Revenues	120.4	134.4	151.2	169.1	177.2	199.4	10.6%
4.	Total Operating Taxes	59.1	64.7	73.5	81.6	84.8	96.0	10.2%
5.	Operating Income	61.3	69.7	77.7	87.5	92.3	103.4	11.0%
6.	Other Income - Net (1)	7.7	7.0	6.7	7.4	8.4	9.4	4.2%
7.	Total Income before Interest Charges	69.0	76.7	84.4	95.0	100.8	112.8	10.4%
8.	Interest Charges (2)	18.7	23.2	26.7	29.7	32.5	35.1	13.4%
9.	Net Income	50.3	53.5	57.7	65.3	68.3	77.7	9.1%

Notes: (1) Includes the dividends from Northern Electric Co. Ltd., which amounted to \$3.6 million in 1959 and \$5.7 million in 1964.

(2) Mainly interest on long-term debt, the average rate on which rose from 4.0% in 1959 to 4.8% in 1964.

Source: Bell Exhibit No. B-2.

BOARD TABLE II
CAPITAL, INCOME AND PERCENTAGE RETURN - THE BELL TELEPHONE COMPANY OF CANADA

Amounts below are in millions of \$ (rounded to nearest \$100,000)

YEAR	AVERAGE AMOUNTS OF CAPITAL OUTSTANDING				TOTAL INCOME (1)	NET INCOME PER SHARE	PERCENTAGE RETURN ON TOTAL CAPITAL
	CAPITAL STOCK	PREMIUM	RETAINED EARNINGS	LONG-TERM DEBT			
1958	452.3	138.4	36.0	384.9	1,011.5	\$2.15	5.30%
1959	506.5	155.9	42.7	451.4	1,156.6	\$2.48	5.90%
1960	530.1	163.8	49.6	516.7	1,260.2	\$2.52	6.01%
1961	577.1	187.0	55.4	571.1	1,390.6	\$2.50	6.01%
1962	611.1	205.8	64.7	620.6	1,502.2	\$2.66	6.26%
1963	661.2	232.6	74.8	670.8	1,639.4	\$2.58	6.09%
1964 (2)	713.6	258.1	86.2	712.1	1,770.0	\$2.71	6.32%

Notes: (1) Total Income is defined as: Total Income before Interest Charges, less Other Interest.

(2) Figures for 1964 are: eleven months actual, plus one month estimated.

Sources: Bell Company's letter to the Board and to intervening parties, dated December 22, 1964, Bell Exhibit No. B-2, and Bell Company Annual Reports 1958-1963.

(b) Review of Operations, Revenues and Expenses (1959 through 1964)**(1) Service:**

Between the beginning of 1959 and the end of 1964, total Company telephones increased from 3.1 million to 4.3 million. This was reflected in an increase in the proportion of households served in the Company's territory, from 87% to 92%, and in an increase in the number of telephones per 100 of population, from 35 to 40. Seventy percent of the increase took place in residence service. The achievement of an overall increase of 1.2 million telephones required the installation of about 5.7 million telephones. The heavy outward movement of 4.5 million telephones reflects the high degree of mobility of present-day society and results in heavier maintenance, depreciation, and construction costs than formerly. Throughout the six-year period, it was necessary to install about five telephones, on the average, to make a net gain of one telephone.

Since 1959, the backlog of held orders for new service, or a higher grade of service, has been virtually eliminated. Pending orders now represent only about 0.03% of telephones in service.

Long-distance message traffic increased during the period from 138 million messages to 181 million messages, despite the elimination of potential message growth through the introduction of extended-area services and the introduction of Wide Area Telephone Service. The continuing development of private-line services and of competitive services has also moderated the rate of growth in long-distance messages. At the same time, message growth was stimulated by reductions in long-distance rates that were introduced during the past six years.

The Company's program of conversion to dial service is now virtually complete, dial telephones now comprising 99% of all telephones, compared to 90% at the beginning of 1959. Direct long-distance dialling by the customer increased from 9% of messages in 1959 to about 43% of messages in 1964. By the end of 1964, direct long-distance dialling could be made from 67% of Company telephones and received by 98% of Company telephones. About half of all customer-dialled messages are now identified and recorded by automatic equipment, and the average time required to make long-distance connections has been reduced from 72 seconds to 55 seconds, mainly as a result of automation.

During the six-year period under review, the percentage of main telephones having individual service rose from 51% to 74% of total telephones. At the present time, over 85% of new installations of residence main telephones in urban areas are for individual line service.

Much work was done during the period to improve the transmission, reliability and appearance of plant and equipment, by such means as pressurized cables, buried cables, automatic testing equipment, and auxiliary diesel generators.

Continuity of service has been assured by such protective measures as the building of by-pass trunk routes, alternate long-distance switching centres, and network-management control centres.

During the past decade, over forty new services were introduced to meet customer needs. They include such services as Centrex, Wide Area Telephone Service, Teletypewriter Exchange Service and Data-Phone Data-Service.

From the beginning of 1959 to the end of 1964, new extended-area service was introduced in 492 exchanges involving 3.5 million telephones. By the end of 1964, 94% of all telephones had extended-area service to one or more contiguous exchanges. Smaller communities benefitted by the establishment of 190 new exchanges as well as by the reduction in the number of manually-operated exchanges from 363 to 55. The average number of customers on multi-party lines was reduced from 7 to 5 and the percentage of multi-party line customers on lines having more than 6 telephones was reduced from 75% to 21%.

New Company exchanges were established at some 30 locations on the country's northern frontier, from the Manitoba-Ontario border to the Atlantic Ocean.

The Company asserted that the value of telephone service to customers has become relatively greater since 1958. The number of hours of work required by an employee in manufacturing industry to pay for one month's local residence service in the 19 largest cities in the territory served by it has been reduced from nearly 5 hours in 1945 to about 2½ hours in 1964. The Company also asserted that, on a similar basis of hours of work, North Americans obtained telephone service at a far lower real cost than telephone customers in the principal cities of the world. Assigning an Index of 100 to an average of 46 cities in the United States, the comparative Indexes for other areas and cities were: 115 for Ontario and Quebec (average of 19 cities); 225 for Zurich, Switzerland; 274 for Sydney, Australia and for London, England; 420 for Tokyo, Japan; and 759 for Paris, France.

(2) Revenue:

Details of the Company's Operating Revenues for the period 1959-1964 are set out in BOARD TABLE III below.

The Company stated at the outset that its objective was to develop to the maximum extent the revenue opportunities provided by the existing rate structure. Between 1959 and 1964, revenues had increased at an average annual rate of 7.6%, or somewhat faster than the average annual increase in Gross National Product of 5.9%. At the same time, revenue per \$1,000 of plant declined from \$265 to \$244, reflecting the continuing heavy capital expenditures on plant for growth, improvement and replacement.

BOARD TABLE III
OPERATING REVENUES 1959-1964 - BELL TELEPHONE CO. OF CANADA

YEAR	LOCAL SERVICE (1)		LONG-DISTANCE (2)		MISC. (NET) (3)		TOTAL REVENUES (4)		OPERATING REVENUES \$ PER \$1000 OF PLANT
	\$Million*	% of Total	\$Million*	% of Total	\$Million*	% of Total	\$Million*	% increase over previous year	
1959	233.6	62.0%	121.0	32.1%	22.0	5.9%	376.6	14.5%	\$265
1960	250.9	62.0%	130.0	32.1%	24.0	5.9%	404.8	7.5%	\$254
1961	269.5	62.1%	138.4	31.9%	25.8	6.0%	433.7	7.1%	\$249
1962	289.6	61.5%	153.8	32.7%	27.6	5.8%	471.0	8.6%	\$248
1963	308.9	61.4%	165.1	32.8%	29.0	5.8%	503.0	6.8%	\$244
1964	325.5	60.0%	187.9	34.6%	29.4	5.4%	542.8	7.9%	\$244

Notes: * Rounded to nearest \$100,000

- (1) Average annual increase, 1964 over 1959, was 6.9%.
- (2) Average annual increase, 1964 over 1959, was 9.2%.
- (3) Average annual increase, 1964 over 1959, was 6.0%.
- (4) Average annual increase, 1964 over 1959, was 7.6%.

Sources: Bell Exhibits B-2, B-18 and B-19.

It was argued that the Company was now subject to three elements of increasing risk in its revenues:

- (a) that arising from a high level of telephone development;
- (b) that arising from the high proportion of revenue derived from long-distance service; and
- (c) that arising out of technological change which made a greater variety of services available to customers.

It was also emphasized that relatively small changes in revenue now had a relatively greater impact on earnings. A one-percent change in 1964 revenue was equivalent to 2.2% of return on total capital, or 3.1% of return on equity capital.

The growth in revenues, from \$377 million in 1959 to \$543 million in 1964, was stated to be mainly the reflection of changes in the volume of traffic rather than changes in price.

(3) Expense:

Operating Expenses for the period 1959 to 1964 are shown in detail in BOARD TABLE IV below.

The Company stated it had managed to control expenses in such a manner as to hold their percentage increase well below that of revenues. Operating Expenses increased at an average annual rate of 6.0%, compared with an average annual increase of 7.6% in revenues. At the same time, there were declines in the operating ratio, from 68% to 63%, and in operating expense per \$1,000 of telephone plant, from \$180 to \$154. Operating Expenses increased 34% during the six-year period, whereas total taxes increased by 45%. Employee expenses per \$1,000 of telephone plant declined during the period from \$92 to \$71.

The Company emphasized the fact that the employee body is now smaller than six years ago, despite a gain of 1.2 million telephones, and was a direct result of its control of labour costs through automation, improved equipment and tools, and better methods. As a reflection of this, the total telephone plant per employee rose from \$41,500 at the end of 1959 to \$65,000 at the end of 1964. Thus, the relatively lower employee expense was partially offset by higher annual charges for the maintenance of capital invested in plant. Because of the greater degree of automation and the greater dependence of labour upon capital to perform work operations, there is now less opportunity to adjust the work force to meet changes in economic conditions. The Company believes that employee expense is now tending to become more rigid.

Depreciation expense increased from \$65 million in 1959 to \$106 million in 1964, or from 25% to 31% of total expense. In terms of each \$1,000 of telephone plant, this was an increase from \$46 to \$48. Due to the current rapid pace

BOARD TABLE IV
OPERATING EXPENSES 1959-1964 - BELL TELEPHONE CO. OF CANADA

YEAR	EMPLOYEE EXPENSE (1)		DEPRECIATION (2)		OTHER (3)		TOTAL EXPENSES (4)		OPERATING EXPENSES \$ PER \$1000 OF PLANT
	\$Million*	% of Total	\$Million*	% of Total	\$Million*	% of Total	\$Million*	% increase over previous year	
1959	131.0	51.1%	64.9	25.3%	60.4	23.6%	256.2	7.1%	\$180
1960	134.5	49.7%	72.1	26.7%	63.9	23.6%	270.4	5.5%	\$170
1961	136.7	48.4%	78.9	27.9%	66.9	23.7%	282.5	4.5%	\$162
1962	142.7	47.3%	86.9	28.8%	72.3	23.9%	301.9	6.9%	\$159
1963	150.5	46.2%	97.3	29.9%	78.0	23.9%	325.8	7.9%	\$158
1964	157.0	45.7%	106.2	31.0%	80.1	23.3%	343.4	5.4%	\$154

Notes: * Rounded to nearest \$100,000

(1) Average annual increase, 1964 over 1959, was 3.7%.

(2) Average annual increase, 1964 over 1959, was 10.4%.

(3) Average annual increase, 1964 over 1959, was 5.8%.

(4) Average annual increase, 1964 over 1959, was 6.0%.

Sources: Bell Exhibits B-2, B-20 and B-21.

of technological advance, the lost value in plant, due to immediate or prospective technical obsolescence, is becoming more predominant than the normal wearing out of an asset. Since depreciation expense is a fixed cost, total operating expense becomes more rigid as depreciation expense increases. In the Company's view, this constitutes an increasing risk, because depreciation is not susceptible to immediate control or reduction, if revenues should decline.

Although other expenses increased from \$60 million in 1959 to \$80 million in 1964, they declined in terms of each \$1,000 of plant from \$42 to \$36.

During this period, the Company also made effective use of the new data processing equipment and techniques, either to improve service or to control expense through increased efficiency.

(c) Construction Expenditures (Actual for 1958 through 1964, and Estimated for 1965 through 1969)

The Company's construction program is continuous at a level commensurate with the needs of new and existing subscribers and has for many years constituted the largest continuous corporate capital expenditure program in Canada. Construction expenditures amounted to \$196 million in 1959 and, apart from 1961, rose gradually each year to attain a level of \$234 million in 1963 and 1964. The total expenditure for the six year period was about \$1¼ billion, or more than twice the cost of construction of the St. Lawrence Seaway. Total telephone plant was increased by about 70% in the six year period, from about \$1.4 billion to over \$2.3 billion.

The level of the construction program is determined by the need to meet growth in demand for service and to maintain adequate service to existing subscribers, but the size of the program is also predicated on an earnings level adequate enough to attract the additional capital required.

The Company stated it neither wanted nor intended to make unnecessary expenditures. All equipment added to the network must be compatible with existing plant and it must also be added in the most economical manner. In this connection, the Company stated that if it was financially able to do the right kind of job at the start, which was not necessarily the job of minimum initial cost, the average cost through the years would be less.

Preparation of the construction program starts at the district, divisional, and area levels; it is then summarized, analyzed and evaluated to ensure that growth requirements, maintenance of the existing service, and improvements in existing equipment and service have been provided for, with adequate flexibility to meet possible changes. The final Company consolidation is further reviewed in the light of overall service objectives, availability of earnings, and possible adjustments in size and timing.

Additions to telephone plant must be planned far in advance, at least two years in the case of buildings and central office equipment. For this reason, close attention is given to continuous analysis of the changing environment in each section of each exchange, to ensure that forecasts are as reliable as possible.

During the past six years, construction expenditures for the five major categories of plant were as follows:

Category	Approximate Percent of Total	Average Annual Expenditure Million \$
General Equipment	4%	\$ 7.5
Plant and Buildings	8%	15.5
Outside Plant	25%	62.3
Station Equipment	22% - 31%	58.4
Central Office Equipment	33%	70.2

In the case of station equipment construction expenditure there was a rising trend, from \$42.5 million, or 22% of the total in 1959, to over \$72 million, or 31% of the total in 1964. This rising trend was due in part to the introduction of a number of more modern, more complex and more expensive items to satisfy service demands, and in part to the increasing mobility of customers and redevelopment within the business sections of most major cities.

Construction expenditures for central office equipment rose from \$65 million in 1959 to about \$79 million in 1964, in part due to growth in toll circuits and in part to the continuing change from manual to dial service. Another factor in this rising trend was increased customer usage of the local telephone plant which increased at a rate of about 2% a year.

The primary reason for the continuing construction program is to accommodate growth. In addition, it has been necessary to spend about \$25 per year for every \$1,000 of plant in service to take care of replacement of damaged plant, customer movement, and major public improvement projects. Such expenditures account for about 25% of total annual construction expenditures; they do not improve the ability of the plant to earn revenue, but they are nevertheless essential to maintain service. The construction program must also assure continuity of service in the face of emergency conditions, by the provision of by-pass routes, alternate routes, protection channels, and so on.

The Company states there is an interrelation between the research and development of new equipment and service and the public demand for them, but this does not mean that all their equipment is automatically discarded. A basic consideration in introducing new plant is that it must be capable of working

compatibly with existing equipment throughout the network. The Company states it does not embark upon new service and improvements until thorough study has demonstrated there are long-term economic and/or service benefits in so doing. Such service improvement programs are usually introduced gradually over a period of several years. As an example, the conversion from manual to dial equipment has been going on over a period of 40 years. Modernization requirements account for approximately 15% of the total construction program. The full impact of the Company's improvement program can be illustrated by the fact that, except for step-by-step exchange equipment, virtually none of the equipment being manufactured to provide present-day service was available or in production in 1950.

The Company expects that the changing customer requirements and the technological change it has experienced during the past six years will continue during the next five years. Its latest estimates indicate a continuing upward trend in capital expenditures, from about \$231 million in 1965 to about \$270 million in 1969, a total requirement of almost \$1.25 billion over the period.

During cross-examination, the Company witness stated that the construction program is under continuous review to ensure that new capital expenditures will produce an overall rate of return that is satisfactory to the Company. He stated further that the rate of return on competitive services was checked from time to time on a sampling basis and that the evidence obtained from these spot checks indicated a rate of return of at least 7%. As to the feasibility of reducing construction expenditures during a recession, the witness estimated that a reduction of about 15% in expenditures could be made but he emphasized that most projects require at least two years to bring to completion.

(d) The Service Agreement with the American Telephone and Telegraph Company

The present Service Agreement became effective as of July 1, 1949. The most important services furnished by the American Company to the Bell Company are as follows:

- (a) the provision of fundamental research, investigation, and experimentation in telephony;
- (b) advice and assistance in engineering, traffic, plant, commercial, accounting, and other matters pertaining to the telephone business; and
- (c) the granting of non-exclusive licences to the Bell Company under the many Canadian patents, present and future, of the American Company.

The Bell Company pays 1% of its local and toll revenues, less uncollectibles, for all of the services and rights it receives under the Service Agreement. This is the same basis on which payments are made to the American Company by Bell operating companies in the United States.

Detailed evidence was presented with respect to the Service Agreement and the services available thereunder, and with respect to the allocations of the costs incurred by the American Company in rendering services under the Service Agreement and Licence Contracts. These costs are maintained in accordance with the Uniform System of Accounts prescribed by the Federal Communications Commission of the United States.

According to the detailed cost data, as allocated to the Bell Company, the American Company incurred \$5,111,013 net expenses during 1964 in rendering services to the Bell Company. In return, the American Company received from the Bell Company during the same year an amount equivalent to \$4,714,873 in United States' funds.

Evidence was also introduced by the Bell Company to show the value it derived from the Service Agreement. It was stated that its headquarters' groups would be tremendously handicapped without access to the pooled knowledge and experience of the American Telephone and Telegraph Company, (A. T. & T.), and its twenty-three operating companies. The Bell Company is in a position to select such of this knowledge and experience as it sees fit and there is no attempt by the A. T. & T., either to direct or to impose its views on the Bell Company. A major benefit under the Service Agreement is that Bell and the twenty-three operating companies of the A. T. & T. can afford to do things as a group that no single company could justify.

Examples of the benefits under the plan were described. These included measurement plans with respect to earnings, costs, service, quality, productivity, and other matters; joint educational and employee-training plans; the seconding of Bell employees to work at the Bell Laboratories, or as part of the A. T. & T. staff, at no wage cost to the Bell Company; and access to procedures, methods, and technical information.

Some of the benefits the Bell Company derives from the Service Agreement can be evaluated in dollar terms. It was estimated that, to develop and produce the kinds of technical information received under the Agreement, would cost the Bell Company in excess of \$1.5 million annually. The development of Bell's system of processing customer accounts with a large-scale computer would have necessitated extra costs of some \$200,000 in the absence of the Agreement. Changes in engineering methods with respect to outside plant, methods which had been developed over many years by the Bell Laboratories and the A. T. & T., resulted in savings to the Bell Company estimated of \$8.8 million in capital and \$50 million in maintenance expense over an 18-year period. The provision of a programmed training course for outward-toll operators is estimated to save about \$90,000 through reductions in instruction time. Adaptations of design work carried out by the Bell Laboratories, which the Bell Company has applied to central-office equipment, were estimated to have a value of \$500,000. The free

use of patent licences for equipment, on which the Bell Company would have had to pay royalties in the absence of the Service Agreement, were estimated to have a value of \$1.5 million annually during the years 1963 and 1964.

Similar services under service contracts are provided by the Bell Company to eight other major telephone systems in Canada. In 1964, Bell's revenues from these contracts amounted to \$838,000.

In conclusion, the Company stated its belief that there was "no substitute for having unrestricted access to the most experienced administrators of the largest communications system in the world..... Its true value cannot be expressed in dollars and cents."

During cross-examination of Company witnesses who gave evidence with respect to the Service Contract, Counsel for the Municipalities referred to Decision No. 67369, dated June 11, 1964, of the Public Utilities Commission of the State of California, (Case No. 7409, in re The Pacific Telephone and Telegraph Company), in which that Commission had made certain disallowances with respect to the Service Contract between Pacific Telephone and the A. T. & T., and asked whether allocations of A. T. & T. costs and expenses were made to the California Commission on the same basis as the allocations to the Bell Company shown in Exhibit No. B-9. Witness Dobbie for the Bell Company answered in the affirmative and observed that California was the only jurisdiction which had made disallowances in recent years in respect of cost allocations to Service Contracts. He stated further that the total disallowance made by the California Commission amounted to about 7% of the costs and was related to the servicing of securities, to A. T. & T. investor interests, and to A. T. & T. pension accruals. He pointed out that, in the case of cost allocations to the Bell Company, there was no allocation to Bell in respect of servicing securities, and he undertook to furnish the Board with a statement showing the results of applying the methods of the California Commission to the costs shown in Exhibit B-9. Such a statement was later filed as Exhibit No. 86 and it showed that the result of applying the methods of the California Commission would be an additional allocation of costs to the Bell Company, amounting to \$69,780.

(e) The Company's Pension Plan

The Company's Pension Plan was established on July 1, 1917, and, prior to 1952, the terms remained essentially the same, except that the minimum pension was increased from \$20 to \$30 per month in 1921, and from \$30 to \$40 per month in 1946. Succeeding changes in the period 1952 to 1963 modified the plan in order to preserve its relationship with those of other major employers.

The present plan provides for a service pension, at employee request or on Company initiative, at age 60 for men and at age 55 for women, who have at least 20 years of service, or at age 65 in either case for those with at least

15 years of service. Such pensions are known as 'Class "A" Pensions', but provision is made for pensions at earlier ages under special circumstances. Retirement is compulsory at age 70.

The amount of the pension is 1.1% of the first \$10,000 of average annual pay during the 5 highest consecutive years, multiplied by the number of years of service. The excess of average annual pay over \$10,000, during the same consecutive years, has a rate of 1% applied to it, multiplied by the number of years of service. The minimum pension is \$70 per month before the age of eligibility to Old Age Security payments and \$55 per month thereafter.

The Company's Pension Plan is financed by the Company with no contribution from employees and is based on three main principles:

- (a) the assuring of orderly retirement of employees when they are no longer able to meet the requirements of the business, the pension costs being considered as a reasonable and proper expense designed to avoid hidden payroll costs and the general lowering of efficiency that would otherwise occur;
- (b) the provision of a pension base to which the employee can add his own program for adequate retirement income through payroll deduction thrift plans; and
- (c) the ensuring of a reasonable relationship between the Company pension plan and those provided and paid for by other major employers.

Studies were made by the Company during the period 1949 to 1964 to determine the extent to which its pension plan was in reasonable relationship with those provided and paid for by other major employers. The results of such studies indicated that the ranking of its plan with those of other Companies had remained almost constant since 1949.

Evidence as to the procedure followed by the Company in meeting service pension costs was given by an Actuarial Consultant who pointed out that Ontario legislation requires the accrual method to be followed. The Company's fund is subject to periodic actuarial review and such reviews have been required by law since the end of World War II. The weighted average accrual rate used at the present time is 4.65%. This rate was first established in July 1950 and has been confirmed by subsequent valuations made in 1955, 1959 and 1964. During the most recent valuation, the Company's actuarial witness stated that he found the unfunded reserve requirements amounted to about \$37 million, as at the end of 1963. Such unfunded reserve requirements were mainly the result of general wage and salary increases which had occurred between one valuation and the next. In order to liquidate this unfunded reserve requirement by 1980, the witness stated he had recommended that the Company make annual payments to the pension fund of about \$3.1 million, beginning in 1964. He further stated that his recommendation had been approved by the Company's Board of Directors.

In Argument, Counsel for the Municipalities urged the Board to make a study to determine whether or not a non-contributory pension plan cast a greater burden on subscribers than a contributory plan. He also stated that he considered the Bell pension plan should be made more progressive and that liberalization of the plan should not be made without the approval of the Board.

(f) Depreciation and Changes in Depreciation Accruals

The Company cited the definition of depreciation established by the Federal Communications Commission of the United States, which definition is also included in the Bell Company's System of Accounts. It reads as follows: "Depreciation, as applied to depreciable telephone plant, means the loss in service value not restored by current maintenance incurred in connection with the consumption or prospective retirement of telephone plant in the course of service, from causes which are known to be in current operation, against which the Company is not protected by insurance, and the effect of which can be forecast with a reasonable approach to accuracy. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand, and requirements of public authorities."

It was stated that the principal causes of plant retirement may be classified as either physical or functional. Physical causes include wear and tear, action of the elements, and casualties. Functional causes include inadequacy, obsolescence, changes in demand, and the requirements of public authorities. "Inadequacy" and "changes in demand" are mainly the result of growth in customers, growth in service provided, and growth in plant facilities which eventually cause plant and buildings to become unsuited to meet service demands economically, thus necessitating the substitution of facilities with increased capacity. "Requirements of public authorities" refers to such conditions as arise from street widening and highway improvement programs. "Obsolescence" is mainly the result of improved designs in telephone plant which supersede the use of previous designs.

The Company maintains an extensive system of plant records and comprehensive engineering studies are carried out annually to determine the depreciation rates applicable to the various classes of telephone plant. The method used is the straight-line group method, which is a plan whereby the original cost of the property, less the net salvage at retirement, is charged to expense through equal annual charges during its service life. In order to establish the depreciation rate for each category of plant, the average service life of each category is determined from plant mortality data which were first established by the Company in the late 1920's and have been maintained since that time. The estimated average net salvage is the difference between the estimated

gross salvage and the estimated costs of removal, including the costs of removing plant from which no salvage is obtained.

During the period 1959 through 1964, depreciation accruals increased by \$42.1 million, 85% of which was due to the increase in plant investment in service. The balance of about \$6.4 million resulted from an increase in depreciation accruals, mainly for Station Apparatus, Station Connections, and Aerial Wire-Exchange. The increase in rate for Station Apparatus is largely due to greater mobility in the population, resulting in a shorter location life of the equipment. The term "Station Connections" includes all the material and labour used to install and connect station apparatus to outside plant and the depreciation rate is determined by the outward movement of telephones, a movement which is dictated by the subscriber as he discontinues service or changes his place of residence or business. The change in rate for Aerial Wire-Exchange has resulted from the combined effect of decreasing life and a shift from the increasingly inadequate open-wire lines to covered (or multiple) wires.

The composite depreciation rate for all depreciable property for the year 1964 was 5.0%, with rates for individual classes of plant ranging from 1.7% for underground conduit to 13.6% for aerial wire-exchange.

(g) General Economic Review and Forecast

Dr. Clarence Barber of the University of Manitoba presented, on behalf of the Company, a general economic review of the pattern of post-war growth in Canada. He also described projections of Canadian output and employment which had been made by the Royal Commission on Health Services (the Hall Commission) and by the Economic Council of Canada.

According to the Hall Commission Report, Canada can expect to have, by 1976, a population of just over 25 million people, an employed labour force of about 9 million, and a gross national product of about \$70 billion in terms of 1957 prices, almost 80% above the output recorded in 1963. When the higher prices expected to prevail in 1976 are taken into account, a gross national product of \$100 billion is projected, some 2.3 times the level attained in 1963. A projection made by the Economic Council of Canada for the period 1963-1970 considers that gross national product in terms of 1963 prices should attain a level of \$62.5 billion by 1970, an increase of some 45% over the 1963 level. To achieve this goal, Canada's gross national product would have to grow at an annual average rate of 5.5%, well above the growth rate attained in the late 1950's.

Dr. Barber pointed out that the growth in output and employment, which had been realized over the past 14 years, was largely the result of a high level of capital investment by business and government. Although the rate of capital investment has declined from the peak reached in 1957, current spending levels

are still large. As a percentage of gross national product, they exceed by a substantial margin prevailing investment levels in the United States. In order to achieve the output levels projected by the Hall Commission and the Economic Council, a continuing high level of capital spending would be required in future years. It was therefore clear that there would be very strong competition for funds in the capital market and a significant part of total capital requirements would have to be sought abroad. Thus, it was likely that the higher interest rates which have prevailed in recent years would continue and might even rise.

In recent years, the Bell Company's capital expenditures have averaged close to 4% of all business capital spending on new plant and equipment in Canada. The financing of Bell's capital spending has involved extensive dependence on new capital funds. In the period 1946-1963, Bell's debt securities accounted for 6% of all corporate bond issues offered in Canada. Its financing by new common stock issues during the same period amounted to 17% of all new issues of common stock in Canada. Such large capital expenditures have not only improved the productivity of the Company's operations but have also made a vital contribution towards improved efficiency in the Canadian economy. Between 1946 and 1964, the number of employees per 1,000 telephones in service has declined from 18.5 to 8.3. At the same time, investment in plant and equipment per worker has increased from \$12,800 to \$65,000.

Dr. Barber concluded by pointing out that the Company's management must reconcile the interests of three different groups: its customers, its employees, and its shareholders. Although the short-run interests of the three might appear to conflict, all of them have a long-run interest in seeing that the Company maintains a successful record of growth and efficiency. In Dr. Barber's view, this would require an earnings record that would enable the Company to attract the capital necessary to maintain the large volume of expenditures essential to its efficiency and growth; to attract and retain the highest calibre of management personnel; and to permit expenditures for research and development. He considered that the regulatory process should take special care to ensure the existence of adequate incentives for efficient management, for innovation, and for successful anticipation of customer needs, because a regulated company had to compete with non-regulated companies for its managerial and other personnel. Regulatory authorities should make a forward-looking assessment of the Company's financial position, because it was not just the profit position of a single firm that was at stake — a significant element in the Canadian economy as a whole was under consideration.

Under cross-examination, Dr. Barber explained that he meant by "a forward-looking assessment" one that would take into account the context of the rapidly-growing economy within which the Company will be operating, and within which it will have to raise its capital. He stated further that far too many decisions

were made in the Canadian economy which take account only of current conditions and fail to appreciate how much the economy grows from year to year, and how much it will grow between the present time and 1970.

(h) The Company's Relationships with Northern Electric Company Limited

Four Company witnesses gave evidence with respect to the Company's expenditures for goods and services; the Supply Contract between the Company and Northern Electric Company Limited; the prices charged by Northern Electric Company Limited to the Bell Company and to other companies; the reasons for, and the advantages of, Bell's ownership of Northern Electric; and the financial arrangements existing between Bell and Northern.

During the year 1964, the Bell Company's expenditures for goods and services, which consist in part of "capital" and in part of "expenses", amounted to some \$281.1 million. Of this total, 63% are expenditures involving Northern Electric and 37% are amounts paid to others. A breakdown of billings involving Northern Electric for the year 1964 shows that 81% of these are for material of Northern manufacture, including installation where applicable. Purchases of materials not of Northern manufacture amounted to 13.0% of the total; repairs amounted to 3.3%; other services amounted to 0.5%; and sales taxes amounted to 2.2%.

Northern Electric paid some \$1.5 million to Bell in 1964 for telephone service at regular telephone rates and \$843,000 for rental of building space. In turn, Bell paid Northern in 1964 an amount of \$196,000 for office space rented from Northern.

Bell's Accounting Department verifies receipt of goods from Northern and the prices paid to that Company.

The Bell Company has long considered that, from the standpoint of efficient operation, and in order to define and protect the priority of its claim to Northern's services, a formal Supply Contract between the two Companies is necessary. Such a Contract has been in force since 1912, with a predecessor of Northern, was continued with Northern Electric in 1914, and was revised in 1924, in 1931, and in 1939. The present Supply Contract reflects the complete revision of 1939 and minor revisions made in 1946, 1949 and 1950. This Supply Contract, which was filed as Exhibit B-50, is the same as that filed with the Board during the 1957 rate-case hearing, with the exception of Appendix "A" to the Contract, covering rates of remuneration for services performed by Northern in respect of purchasing, storekeeping, and inspection, which Appendix is revised annually.

The Supply Contract has three main articles:

- (I) Northern is to stock and distribute materials for Bell;

(II) The price to Bell for materials of Northern manufacture, and for installation or other services, is to be as low as to Northern's most-favoured customers, for like materials and services under comparable conditions; and

(III) The liability of Northern and Bell in regard to performing their obligations is set out.

Under the terms of the Contract, Bell's purchases from, and installations by, Northern in 1964 amounted to \$144 million. The amount for material not of Northern manufacture purchased by Bell in 1964 was \$23 million. Amounts of \$5.78 million and of \$974,000 were paid respectively to Northern for repairs, and for other services. Northern maintains warehouses at Montreal and Toronto in which new materials are stocked for the convenience of Bell; they are also used for handling, storage and repair of returned materials.

The Supply Contract provides for two methods of payment for repairs by Bell:

(a) at established prices; or

(b) at actual cost for labour, published prices for materials and provision for overhead.

Northern also carries out technical and engineering inspection of materials purchased for Bell from outside suppliers. The Supply Contract also provides for Northern to undertake a number of other services for Bell at specified rates.

The Bell Company, in determining the acceptability of Northern's prices, makes studies of acceptable price-volume ranges and it discusses with Northern the practicability of meeting such price ranges. When Bell decides to accept Northern's initial price for a new item, it does so only after it has made extensive tests of the reasonableness of that price in relation to its value to Bell in the particular service situation.

The Company states that the factors involved in price acceptance are: its engineers' knowledge of what is available in the open market; the price which can be supported by economic, rate, and marketing studies; the quantities involved; the probable years of use; and whether, with increased volume, lower prices can be expected. Engineering studies often precede the standardization of a Northern manufactured product, and these may be very complex or relatively simple. They may involve such considerations as possible increased productivity of telephone employees, decreased maintenance, continuity of design, effect on existing plant, and provision of new services. Such considerations require a high degree of engineering judgment and the cooperation of all departments of Bell.

The Bell Company considers that, for telephone sets and other materials, the prices paid by Bell to Northern are reasonable, because Northern has sold

substantial amounts of its communications products in the open market and the most-favoured-customer clause in the Bell-Northern Electric Contract stipulates that the price to Bell will be as low as to Northern's most-favoured customer for like materials and services under comparable conditions. Price comparisons are made on a sampling basis for main classes of product, in order to verify that this provision of the Contract is being met. Similar comparisons are made for engineering or installation services.

Annual studies, by audit of the Northern's records, are made for Bell by a firm of Chartered Accountants, Touche, Ross, Bailey and Smart. A copy of their latest report was filed as Exhibit B-52. This latest audit was made on a random sample of about 8% of Northern's contract sales to the general trade, (representing 5% of the number of contracts closed during the year), and of one-day's sales per month for sales other than contracts, (representing about 5% of such sales). The auditor's price study shows the prices to Bell are less than the prices to others.

A further check of the reasonableness of Northern's prices to Bell has been made by comparison of Northern's prices to Bell with prices of five major suppliers of telephone apparatus in the United States. This check indicates that, while there have been variations over the years, Northern's prices to Bell are in general substantially below those charged by the four American suppliers having similar sales volumes. They also compare favourably with the Western Electric Company's prices to Bell system companies in the United States, if effect is given to the difference in production volume between Western Electric and Northern.

The combined efforts of Bell and Northern have resulted in general price reductions, the most recent of which occurred in 1964 and which is expected to result in a saving to Bell in 1965 of \$3.4 million.

The Company stated that the manufacture of telephones and related equipment by Northern Electric and its predecessor companies has been closely associated with the provision of telephone service by the Bell Company since the beginning. In 1881, the Company was obliged to engage in the manufacture of telephone sets, because of the death of its previous supplier and because no other manufacturer of such sets could be found in Canada. Sets could not be imported at the time without invalidating the Canadian patents. Fluctuation in the manufacturing workload, however, resulted in equally frequent fluctuations in the manufacturing work force. It was therefore decided in 1895 to establish a separate, subsidiary manufacturing company, called the Northern Electric and Manufacturing Company, which could develop access to a wider and more stable market, thus ensuring full utilization of manufacturing capacity and lower costs in telephone equipment. In 1899, a wire and cable company was established which was eventually merged with the other manufacturing company in 1914 to become the Northern Electric Company Limited.

Initially, the Bell Company took the entire output of its subsidiary manufacturing companies but, as the business of these subsidiaries increased, the proportion of their output taken by the Bell Company decreased until, in 1912, the Bell Company took only about 30% of the output. During the First World War, Bell's proportion was reduced to 20%, but by the early 1920's this proportion rose to 58%. During the years 1940 through 1945, only 15% of output was taken up by Bell, but in the post-war years this proportion increased radically and Bell now takes about 53% of Northern's total sales. The Company also stated that a primary reason for its ability to provide for growth and increased value of communications service has been its close integration of research, development, manufacture and operations. It considers that there is no adequate substitute for this arrangement, in the provision of high-quality and reasonably-priced communications material for Bell's use.

Comparisons were made between the conditions obtaining under the present Bell-Northern corporate relationship and those which might obtain under two alternative arrangements: (a) competitive tenders, and (b) a long-term contract or contracts with one or several contractors. It was pointed out that it must always be borne in mind that a complete communications network is involved in which every part must work with every other part. A full knowledge of the requirements of this network has been acquired by Northern through many years of close association with Bell. Under a competitive-tender system, Bell would have to issue detailed specifications for each tender, thus greatly increasing its engineering effort and cost. There would also be great difficulty in choosing compatible equipment. Under a long-term-contract system, it was contended that the interest of manufacturers would differ from that of the Bell Company because their products would be made to be sold at maximum profit, a situation which would detract from the importance of compatibility, or traffic-carrying capacity. Moreover, such manufacturers might not have facilities for field testing.

Under a competitive-tender system, the telephone company would have to wait for technological development to meet needs which can now be identified in advance. Such a system would also make it virtually impossible to secure a continuous supply of replacement parts for older equipment, thus leading to more rapid replacement and higher-cost telephone service. The same considerations would also apply to a long-term-contract arrangement with an independent manufacturer, because the economics of the manufacturer would militate against his continuing to supply parts for older equipment. The construction of a telephone network with equipment from several manufacturers would also introduce tremendous problems of compatibility, with resultant damage to service and increased costs for engineering and maintenance.

Under the present Bell-Northern relationship, Northern can plan its production facilities with Bell's long-term requirements in mind, a relationship which

has definite advantages for both Companies. With competitive tenders, this kind of planning would be impossible. The Bell Company contended also that, in the matter of price, it is fundamental that a single supplier gains economic advantage through volume production, as compared with several suppliers filling the same overall requirement. In addition, the higher the utilization of Northern's plant, the sooner there is mechanization of production processes, with cumulative benefits in unit-cost reduction. The Bell Company asserted that the full benefits of Northern's economies of scale accrue to it in lower prices and dividends.

With respect to quality of production, the Bell Company expressed the view that competitive tenders would result in a more expensive network of poorer quality, with greater difficulty in initiating new services and equipment to meet the needs of the public. The Company also contended that an independent manufacturer with a long term contract must clear his overhead yearly and pay satisfactory dividends to his owners. Under such circumstances, he could not be responsive to too great an extent to the long term plans of a separate operating agency.

When the Northern Electric Company Limited was incorporated in 1914, Bell's ownership was 50% of the outstanding shares, with an additional 6.4% held by Bell nominees. The remaining share capital was held by Western Electric in the United States. Bell's ownership was gradually increased and, with two major acquisitions in 1957 and 1962, now amounts to 100%. The share purchase in 1957 increased Bell's investment from \$6.6 million to \$26.3 million, and, in 1962, this figure was increased to the present total of \$34.4 million.

As a separate corporation whose interests are directed primarily towards meeting Bell's requirements, Northern's capital structure, earnings, and volatility of sales, have, nevertheless, maintained a close relationship to those of other comparable manufacturing companies.

The capital structure of Northern and that of the Montreal Stock Exchange's 65 industrials over the period 1949 - 1963 averaged as follows:

	Debt Ratio %	Preferred Stock Ratio %	Common Stock Ratio %
Northern Electric Company Limited	20.92	—	79.08
Average of 65 Industrials	22.80	4.52	72.68

The average rates of return on total capital and on equity capital earned by Northern and other industrials during the same period are as follows:

	Average Rate of Return on	
	Total Capital	Equity Capital
	%	%
Northern Electric Company Limited	10.26	11.95
Average of 65 Industrials	10.54	12.65

Dividends paid by Northern to Bell increased from \$3.6 million in 1959 to \$5.7 million in 1964. During the same period, payout ratios for Northern were in the range of 44% to 74%, as compared with the range of 54% to 58% for the 65 industrials. In July 1964, Northern Electric declared a special stock dividend of one share for each four shares previously held, thus changing the number of shares owned by Bell from 810,000 to 1,012,500.

The Bell Company stated that its ability to control the effects of obsolescence has been one of the major advantages of its control of its manufacturing arm. From the beginning of telephone service, rapid advances in technology created inadequacy and obsolescence of plant, just as they do today, but this obsolescence has rarely resulted in the complete replacement of communication facilities. Technological advances have been applied first to take care of new and additional service and replacement of obsolescent equipment has only been made after customer preference, cost of manufacture, maintenance and repair so dictate. The rapid pace of technological change has required an inter-weaving of the older devices, materials and techniques with the new products so that complete replacement of older designs has not been required. Close control over this situation has been maintained through ownership of a manufacturing plant, which permits selection of the type, quality, and capability of the materials to be manufactured and also ensures that production of replacement and repair parts will be maintained.

The other advantages of using a single major supplier were stated to be the storage, repair and shipment of telephone materials; the purchasing and inspection of a wide variety of supplies, tools and vehicles; the ready availability of material when and where required to meet customer service requirements; and the ability to restore service rapidly after major damage due to sleet, storms or fire.

During cross-examination, a Company witness furnished the following breakdown of the 1964 sales of the Northern Electric Company:

Sales to the Bell Company..... 53.0%

Sales to other telecommunications companies	18.0%
Sales to non-telecommunications companies.....	24.8%
Export sales.....	4.2%

The same witness also stated that calculations of the rate of return on Northern's sales to Bell did not exist, to his knowledge, in the form requested by Counsel for the Municipalities, but he conceded that Northern might well have made some kind of approximation of such a rate of return. He asserted that the Bell Company, as such, does not have detailed knowledge of Northern's costs, since this would tend to pre-empt the management functions of Northern. In his judgment and experience, Northern met Bell's needs at the lowest possible cost to Bell, having regard to quality, maintenance and Bell's special requirements.

(i) The Fair Return on the Company's Total Capital

Expert opinion concerning the fair percentage return on Bell's total capital used in providing service to the public was given by Dr. W. A. Morton, Professor of Economics at the University of Wisconsin, who has testified many times before various regulatory agencies in the United States with respect to the fair rate of return for public utilities.

In Dr. Morton's view, a reasonable, target rate of earnings for Bell should be expressed in terms of a percentage rate of return on total capital, a procedure which would be in reasonable accord with the practice in original cost jurisdictions in the United States. A fair return must be a competitive one and it would normally be less than the utility could earn without regulation. By a "competitive return", Dr. Morton had in mind the concept of "the opportunity cost of capital"; that is, what capital could earn in competitive enterprises of corresponding risk. Such a concept was bound up with the comparative-earnings test, a test that was also equally applicable during a period of economic progress. Under such a test, the fair return would be one that was able to attract capital in the quantities needed to finance the enterprise, but neither competition nor regulation could ensure that the capital invested in any enterprise would earn a return. Regulation could only provide the opportunity to earn a fair return, but it could not guarantee it.

Although the aim of regulation should be the prevention of monopoly profits, it should also stimulate the utility to search for what Dr. Morton called "efficiency profits". This could be achieved by administering the fair rate of earnings on common-stock equity within a range of reasonableness that would retain incentives towards improvement through cost reductions and would also share the resulting gains between shareholder and customer. Progress was ensured, not by reducing the return on capital, but by reducing production costs, but if every improvement in the form of lower costs or higher profits were to be offset by regulatory action, incentives would be impaired and the utility would tend

to settle down to the routine of "cost-plus", in which rates are set to cover costs plus a fair rate of return. This would be wasteful, inefficient, and detrimental both to the utility and to its customers.

Dr. Morton considered that a limitation on earnings in terms of a fixed number of dollars per share would destroy the incentive to utilize new investment in the most efficient manner. It was incorrect in principle to make no allowance for improvements in performance or for the stockholders' contributions to the increase in book equity per share. Earnings per share should therefore not be made independent of the underlying equity per share.

In Dr. Morton's view, equity earnings and dividends measured the productivity of equity capital. In addition, average earnings figures were an indication of earnings opportunities. These concepts underlay his comparisons in his Exhibit B-45, the purpose of which was to compare the financial performance of Bell's common stock, over the period 1947 to 1963, with that of Canadian industrial companies, of United States' industrial companies and of United States' utilities. Dr. Morton considered this Exhibit showed that, on a comparative basis, the common stock of Bell had been much less desirable throughout the period as an investment than had been the shares of competing utilities and industrials. Bell's return on equity and its growth in market price per share had been much smaller than that of any other group of companies with which it could reasonably be compared. An investor who had distributed his funds over the other companies shown in the Exhibit would have fared much better than if he had bought Bell stock. Yet the lack of growth in equity per share of Bell was not attributable to a slow rate of expansion, because Bell's total capital had expanded at a faster rate than either the Bell system in the United States, the electrical utilities in the United States, or American industry in general. In the light of such a poor performance, Dr. Morton concluded that any hope of appreciation in the market value of Bell's shares must rest upon the belief of investors that Bell would be permitted to achieve a level of earnings higher than in the past.

Dr. Morton advocated, as a guide to a reasonable level of earnings, the performance of other companies of comparable risk. Because the investor generally sought to pay an equal price for an equal opportunity for financial gain in the form of dividends, earnings, capital assets, and market appreciation, the competitive earnings constituting the fair rate of return must be comparable to those of other enterprises, risk considered. They must also attract capital and maintain the integrity of the investment. The fair rate of return, however, was a target — it was not a point, but a range of reasonableness. What might be reasonable as a point of departure when rates are established was not necessarily the precise level at which earnings should always be maintained. During recessionary periods, it was not usually practical to increase rates in order to

raise the rate of return to some pre-established level. Conversely, a telephone company can be expected to improve its earnings during periods when the economy as a whole is doing very well. An earnings level which might be judged as reasonable, because it has been attained as a result of a superior performance by the economy, might not be appropriate as a guide in setting a higher level of rates for the future.

Utilities, such as the Bell Company, have a monopoly on a broad range of services within a service area and do not face the same degree of risk as non-utilities in such things as direct competition, over-capacity due to the investment of competitors, and loss of markets to competitors. Because of the lower degree of risk, utilities generally have a higher debt ratio than industrial companies, but they may also have comparable earnings on equity, as a result of the leverage exercised by a much larger debt capital on lower overall earnings. Although earnings rates of industrials on total capital are higher than those of utilities, earnings rates on equity capital tend towards similarity.

Although monopoly of a service area diminished that portion of risk due to direct competition, a utility had the long run risk that it would become relatively inflexible compared to other enterprises. Its plant was fixed and specialized to furnish a given service and had value only in so far as the specialized service could be sold at a profit. This was in contrast to much of manufacturing where the fixed assets were generally more flexible and could be adapted to new uses as the demand for products shifted. Telephone plant also ran the risk of unforeseen, accelerated obsolescence, due to changes in technology, which might make possible new forms of communication.

For these reasons, it was Dr. Morton's view that the Bell Company was following a prudent and reasonable path in maintaining a capital structure of about 40% debt and 60% equity. Increased debt would tend to lower the company's bond ratings and increase the cost of new debt.

Dr. Morton also pointed out that the dividend yield on Bell common stock has recently been about 3½% on market price, with the earnings-price ratio about 4½%. At the same time, the yield on the company's bonds has been above 5½%. In his view, this showed that the investor is not buying Bell's common stock for the current dividend or earnings yield but on the expectation of a growth in both. He emphasized, however, that the concern must be with a reasonable expectation of earnings on book equity and not a reasonable return on market price. He stated that regulation in the United States had used the invested capital of a company as the basis of a fair rate of return, and not the market price of its stocks and bonds. Historically, the rates earned by utilities on book equities and total capital had been quite stable over many years, as compared to the prices of the securities in the markets.

It was Dr. Morton's considered opinion that reliance must be placed upon the opportunity cost of capital, as measured basically by the financial performance of companies with which Bell must compete for capital. Earnings opportunities might be viewed as opportunities for earnings on the equity, for dividends, for safety and growth through retained earnings, and for capital appreciation. He asserted that the direct competitors of Bell's common stock in the capital market were the stocks of other utilities and industrial companies, both in Canada and in the United States, and that the earnings opportunities on such common stocks were therefore an indication of the competitive cost of new capital. He did not, however, consider privately owned Canadian utilities as effective alternatives to investment in Bell since they were so few in number. He also stated that utility earnings alone did not serve as a single measure of a fair rate of return and, for this reason, he had examined the earnings of non-regulated United States' and Canadian industrials as a guide to the marginal efficiency of equity capital in both countries.

Dr. Morton pointed out that the average rate of 6.78%, earned on the common stock equity of Bell for the period 1947 to 1964, was noticeably below that of either the United States' industrial or utility companies, and below that of the Canadian industrial companies as well. He also noted that the pay-out ratio of Bell had been higher than that of the companies with which he made comparisons, and he stated that this was one of the factors that had made Bell stock a less desirable investment than it otherwise would have been. As an example, a return on Bell stock equivalent to that of the electric utilities in the United States would be 8.59%. For a Canadian investor to earn the same on Bell equity as he would on the common stock of Moody's 125 industrials, he would need a dividend return of about 10.7% on book equity. A similar computation would give 9.1% for the Dow-Jones Industrials and 10.0% for Standard & Poor's Industrials. Dividend returns on the Canadian Business Service's 100 Companies and the Montreal Stock Exchange's 65 Companies averaged 6.11% and 6.57% respectively during the period 1949 to 1963, but the pay-out ratio for such companies has been between 50% and 60%, compared with Bell's pay-out ratio of 93.9%.

In conclusion, Dr. Morton stated that it was clear to him that the fair rate of equity earnings for Bell lay in a range beginning with the 8.6% adjusted equivalent of United States utilities earnings, up to the 10% to 12% earnings rates of industrial equities. For this reason, he considered it appropriate to use 8.6% on equity, combined with an embedded cost of Bell long-term debt of 4.8%, as at the end of 1964, to arrive at a fair return on total capital of 7%. His calculations in this regard were as follows:

Cost of equity – 60% at 8.6%	= 5.16%
Cost of debt – 40% at 4.8%	= <u>1.92%</u>
TOTAL	<u>7.08%</u>

FAIR RETURN ON TOTAL CAPITAL..... 7.00%

(j) Investor Appraisal of the Company

Mr. C. E. Atchison, Executive Vice-President of The Investors Group, Investors Syndicate Limited, and Vice-President of other associated mutual funds, testified with respect to the attitude of Canadian institutional investors towards the common stock of Bell.

He described the growing role of institutions as a market for Canadian equities. Such institutions comprised non-insured pension funds, investment companies, insurance companies, and other miscellaneous institutions. In the ten-year period ended December 1964, the estimated market value of common stock held by such institutions increased from \$750 million to \$2,850 million, or by about 380%. The witness noted that, in addition to the expansion of common-stock holdings by institutional investors, there had been a marked expansion over the past ten years in the quality and quantity of professional services available to individuals through investment dealers, stockbrokers and consultants.

With respect to the four mutual funds and the trust company managed by The Investors Group, he stated that they held securities with a market value of about \$730 million, of which some \$380 million was represented by Canadian common stocks. The common-stock holdings included 275,000 shares of Bell Telephone worth about \$16.5 million. The Group also held \$2.9 million of Bell Telephone bonds.

Mr. Atchison described the position of The Investors Group relative to Bell common stock. The Group first gave consideration to such stock in 1950, at which time the stock had been split, but the market price had still not recovered to the 1946 high. Consequently, it was concluded that there were many Canadian stocks which offered better opportunities for growth. In 1952, however, Bell stock was first bought for Investors Mutual, because the pattern of regular rights issues by Bell was well established and was an important attraction. However, in the six-year period between 1952 and 1958, Bell stock showed an appreciation of only 12%, compared with an increase of 43% in the Toronto Industrial Index. Because of this record, Investors Mutual came to regard Bell stock as having more of the characteristics of a preferred stock rather than those of a common stock, and the Fund sold, rather than exercised, its rights during the 1959 stock offering.

Mr. Atchison stated that, a review of Canadian investment company holdings of Bell stock showed a similar sharp build-up during the early 1950's, followed by a noticeable flattening-out, which suggested a less optimistic appraisal of the stock. This negative trend of opinion began to change after Bell's announcement of the dividend increase at the end of 1959. The announcement, it was stated, was unexpected because the traditional reason for a dividend increase — a rising trend of earnings — did not appear to be present. Although earnings per share of Bell had shown a good increase in 1959, to \$2.48 on average shares

outstanding from the previous year's level of \$2.15, this was no more than a rebound to the average level of earnings for the five years 1952 - 1956. Return on equity, after having fallen for several years, levelled out in 1958 but increased in 1959, reaching 7.13% in the latter year.

Mr. Atchison stated that, a few months before Bell's dividend announcement, the A. T. & T. had announced a stock split and its first dividend increase since 1922. Although there was a temptation to conclude that Bell was now on the road to higher earnings and dividends, with some time lag behind the A. T. & T., the compelling argument against such an optimistic appraisal of Bell stock was the uncertain regulatory climate. During 1960, however, Bell succeeded in increasing its return on equity and earnings per share for the second successive year, as the massive capital expenditures of earlier years began to contribute to higher profit margins. At the same time, there were signs that the Company was anticipating that the pace of its expansion would level out; hence, there would be less need for outside financing and less dilution of the shareholders' interest. For these reasons, Investors Mutual came to the conclusion that Bell stock had potential growth prospects for the longer term and it therefore began a buying program to add Bell shares to its portfolio.

In conclusion, Mr. Atchison stated that his company's appraisal of the steps taken by Bell to improve simultaneously its cost structure and the quality of its service, plus a growing belief that The Board of Transport Commissioners would "increasingly recognize the desirability of permitting the Company to increase its earnings" with the attendant prospects for increased dividends over the longer term, led Investors Mutual to increase substantially its holdings of Bell common stock in recent years. He stressed that, if for any reason, the prospects for earnings and dividend growth on the part of Bell became less encouraging, this would be reflected quickly in investors' attitudes, and such an adverse development would undoubtedly be costly to the Company in its periodic offerings of new capital stock.

During cross-examination, Mr. Atchison stated that he ought to have described the regulatory climate with respect to the Bell Company as unsatisfactory rather than as uncertain. He stated further that the rate of return on book equity is not the criterion used by an investor in assessing the value of a stock. The investor's prime concern is with growth in earnings per share over the next five to ten years.

(k) The Company's Earnings Requirements

Evidence in respect of the Company's earnings requirements was given by Mr. Arnold J. Groleau, Vice-President - Finance of the Company, who stated that the prospect of good earnings provided management with the incentive to develop new and more efficient operating methods. It also facilitated long-range

planning, thereby providing the best product at lowest cost over the long run. With a continuing need for new capital, the company had to maintain the attractiveness of its securities in the market, and this could only be achieved through an earnings performance more comparable with that of other industries.

Mr. Groleau contended that, when profits shrink, capital spending is correspondingly restricted and Exhibit B-59 was introduced to show that, in general, the trend of business capital expenditures was similar to the trend of corporate profits. Under cross examination, however, he agreed that Bell's capital expenditures and Bell's corporate profits did not exhibit the kind of relationship demonstrated by Exhibit B-59.

Since the beginning of 1949, the Company has had to raise about \$1½ billion on the capital markets; \$703 million in bonds and \$850 million through issues of common stock, or an average capital issue of almost \$100 million per year. In the period 1949 to 1958, \$769 million of capital issues was made; \$328 million in bonds and \$441 million in common stock. This represented 4.7% of the total bonds and 17.3% of common stock issued by all Canadian corporations. From January 1959 to December 1964, the Company raised \$784 million, of which \$375 million was in bonds and \$409 million in common stock. These issues represented 7.9% of new bond issues and 22.7% of new Canadian stock issues.

In recent years, the Company had been faced with a relatively higher cost of debt. Since the beginning of 1959, the costs on all Bell issues in Canada had ranged between 5.46% and 6.43%. In the previous ten years, all issues with the exception of one had ranged between 3.29% and 4.70%. A similar trend had developed with respect to issues sold in the United States; in 1958 the cost was 4.18%, while in 1964 it was 4.82%. Since the end of 1958, the embedded cost of Bell debt had increased from 3.89% to 4.81%. In this connection, it was argued that the higher cost of debt increased the bondholder's risk by lowering the average "bond interest coverage". Since 1952, Bell's earnings coverage of interest charges had declined, both on a before- and after-tax basis. A continuation of this downward trend would ultimately have an adverse effect on the Company's bond rating and this would result in even higher debt costs.

The witness stressed the importance of a good credit rating in connection with the financing of the Company's construction program over the next five years and in the refunding of maturing debt over a somewhat longer period. Over the next five years, about half a billion dollars would have to be raised for construction, and a substantial amount of this would be in the form of debt. During the next twenty-five years, the Company would have to refund its entire outstanding debt, amounting to \$735 million; this alone, would require bond financings in eighteen of the next twenty-five years. The Company would also have to seek frequent, large amounts of equity capital.

Although the Company's earnings performance in the period from 1949 to 1958, as measured by the rate earned on common equity, had not compared favourably with the results achieved by other Canadian industries, the Company had been able to obtain needed capital due to the combination of a number of favourable factors. These included the Company's record of uninterrupted dividend payments over a long period of time; the prospects for growth in the telephone business due to the tremendous pent-up, post-war demand for service; the issue of rights associated with the Company's frequent stock offerings; and strong market conditions, accompanied by rapid inflation, which caused a shift to equity investments with growth prospects to provide a hedge against inflation.

Mr. Groleau stated that rights could not be counted on to the same extent in the future, since new stock issues would represent a steadily declining proportion of the capital base. The four stock issues between 1949 and 1953 offered a right of one new share for each five outstanding; the next four issues offered one for seven, or one for eight; and the last two issues offered one for twelve. This trend would continue and, as a result, the contribution of rights values to the investor's return would continue to decline.

With respect to market conditions, Mr. Groleau stated that Bell's deteriorating earnings performance during the latter half of the 1950's had resulted in lower stock market prices for Bell shares. Earnings fell from 8.21% on common equity in 1953 to 6.21% in 1958. The market price was such that in order to obtain equity capital, the Company had had to issue new stock below book equity in 1957 and 1959, thus diluting the shareholders' book equity. As a result, and in order to strengthen the competitive position of its stock, the Company had increased its dividend rate at the end of 1959 from \$2.00 to \$2.20 per annum. The higher dividend was made possible by somewhat higher earnings.

Between 1959 and 1964, the rate earned on common equity had increased from 6.2% to 7.4%. This improvement, coupled with increased investment per share, had resulted in an increase in earnings per share to \$2.71. Over the entire six-year period, earnings per share averaged \$2.58 and the prospects of further improvement had impressed investors more favourably.

The Company's success in financing in the period since 1958 had been due in part to the decline in the volume of total corporate financing, and this had enabled the Company to set the issue price for recent stock issues above book equity. This situation was changing, however, and in the next five years the Company would have to raise half a billion dollars in an increasingly competitive environment. Even now, there was some evidence of increased competition in the capital market. The Federal Government was encouraging foreign companies to offer an equity interest to Canadian investors and, in the Province of Quebec, the government had entered into a number of joint government-private enterprise ventures. At the same time, there was some doubt as to the adequacy of the

supply of capital in coming years, one of the limiting factors being the adverse balance of payments situation in the United States. In this increasingly competitive financial environment, it was contended that the Company's earnings performance must more closely match that of other industries, particularly as investment decisions are being made by increasingly knowledgeable investors. The growing role of professional investors was reflected in the fact that in 1958 about 28% of Bell stock was held by institutional investors and this percentage had increased to 35% by the end of 1964.

Mr. Groleau argued that to remain competitive in this new financial environment, the Company must achieve a higher earnings level, one more comparable to the returns available from other common stock investments, risks and uncertainties taken into consideration. He also argued that, since differences in operating risk are reflected in different capital structures, thus equalizing the total risk, the equity investor expected about the same return from utilities as he did from industrials.

As to the question of the appropriate level of a just and reasonable return for Bell, it was Mr. Groleau's view that this could not be determined with mathematical precision, but that a zone of reasonableness could be established. The lower end of this zone should be at least sufficient to preserve the purchasing power of the shareholder's capital and income.

Exhibit B-65 was filed by Mr. Groleau as an analysis of all 66 manufacturing companies listed on the Montreal and Toronto stock exchanges, for which consistent data were available over the 1946 - 1963 period. This exhibit indicated that most companies more than maintained the real value of their shareholder's capital and income, the growth in book equity and the dividends being greater than the 71.6% increase in the Consumer Price Index.

It was also Mr. Groleau's opinion that between 1946 and 1963 Bell was unable to maintain the integrity of the shareholder's investment. Book equity and dividends increased by 11.6%, compared to the 71.6% rise in the Consumer Price Index. Even with allowance for rights values, the improvement in investment value was only 47.9%. Thus he contended, shareholders had suffered a real loss in the value of their investment, and rights values had not been compensating for inadequate earnings. Over the 1946 - 1963 period, Bell earned 6.8% on common equity, significantly below the 11.7% earnings rate of companies showing satisfactory growth and, in fact, lower than the 8.0% result earned by companies shown on Exhibit B-65 who failed to maintain the integrity of their shareholder's investment.

In support of a just and reasonable level of earnings, Mr. Groleau argued that Bell's earnings on common equity should be at least 8.4%, the result achieved by those Canadian companies, referred to in Exhibit B-66, which earned the lowest average rate required to maintain the integrity of the share-

holder's investment. A rate of about $8\frac{1}{2}\%$ was lower than the average earned by a wide range of industry during the period 1949 - 1963, but it would afford Bell the opportunity of generating moderate growth in earnings per share in order to maintain investor interest in its common stock. Such level of earnings must be considered in the light of the continuing heavy demands on the capital market which Bell will make and the prospect of increased competition for capital funds.

Since 1959, Bell's earnings rate on common equity had improved, reaching a level of 7.4% in 1964, but this was still well below what the Company considered to be a minimum earnings requirement.

In conclusion, Mr. Groleau pointed out that the Company had \$735 million of bonds outstanding at an embedded cost of 4.8%. This cost, coupled with earnings of $8\frac{1}{2}\%$ on common equity, and a 40% debt ratio, produced what the Company considered to be a reasonable, overall earnings requirement of 7%.

During cross-examination, Mr. Groleau stated that his figures for the percentage return on equity had been calculated on the basis of the average equity for each year. As to his requested rate of 7% return on total capital, he regarded this as the floor of a range, but he was unable to say what the upper limit of that range might be under future conditions which he could not foresee. The rate of return on equity capital was, he considered, the earning power of the money in the business. He did not, therefore, look upon rights to subscribe to stock issues as a return, or part of a return, since such rights were not earned by the money in the business. In this connection, he stated that, over the period since 1946, an investor in Bell realized in rights an average annual value of 75 cents per share.

2. SUMMARY OF EVIDENCE AT THE HEARING

(ii) AS ADDUCED BY THE UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

The Union presented a submission which argued that Bell's profit position was already more than adequate, and that a higher profit level could come only from higher telephone charges or from the withholding by the Company of cost savings that ought to be passed on to users of its services; that Bell's financial requirements were not, in the main, subjected to the tests of the capital market because the "market" for Bell's securities was essentially a captive market, consisting of existing Bell shareholders or connected financial institutions; that the Company's earnings had been adequate enough to sell its bonds; that Bell's common stock was more highly regarded than that of most utilities; and that the regulation of Bell's earnings, without control over Bell's expenditures, was meaningless.

It was submitted by the Union that Bell's request for a 7% return on total capital should be denied; that the Board's regulation of the Company should

include close scrutiny of Bell's expenditures and inter-company transactions; that the Board should review Bell's rates so as to ensure that cost savings are passed on to the public; and that The Bell Telephone Company of Canada should be nationalized.

2. SUMMARY OF EVIDENCE AT THE HEARING

(iii) AS ADDUCED BY THE COMMUNIST PARTY OF CANADA

The Communist Party of Canada submitted that no increase in the permissive level of earnings, which would inevitably lead to increased telephone rates, was in any way justified; that there should be a country-wide review of the Company's operations, including the existing rate structure, capital structure, ethical and business practices, including the extent of foreign control; that such review should include an examination of whether or not the public interest would not best be served by nationalization of the Company and all its subsidiary companies; and that, pending such a public review, the Board should establish a public advisory board to advise it on all matters concerning the Company.

2. SUMMARY OF EVIDENCE AT THE HEARING

(iv) AS ADDUCED BY INDUSTRIAL WIRE & CABLE COMPANY LIMITED

Two witnesses appeared on behalf of the Industrial Wire & Cable Company Limited: Dr. Lionel W. Thatcher, Professor of Commerce and Economics at the University of Wisconsin, and Mr. W. A. Simonton, a partner in the firm of Price, Waterhouse and Company, Toronto, Chartered Accountants. Their evidence was directed solely to the relationships existing between the Bell Company and the Northern Electric Company Limited.

Dr. Thatcher submitted that the principle that transactions between a regulated company and an affiliated company are subject to examination, and that the prices of the goods or services furnished by the affiliated company are subject to adjustment or disallowance by the regulatory body, was one that was generally accepted in the United States, as evidenced both by statutory provisions and by court decisions. In this connection, he referred to the co-operative studies of Western Electric Company, a subsidiary of the American Telephone and Telegraph Company, which had been made from time to time by committees of the Federal Communications Commission and the National Association of Railroad and Utilities Commissioners, and he filed as an Exhibit a document entitled "Data for 1963 Prepared by Western Electric Company, Inc., at the Request of Joint NARUC-FCC Subcommittee."

* Because there was an absence of arm's-length bargaining between the two companies, the witness stated he firmly believed that the cost of services and goods supplied to the Bell Company by Northern Electric was more significant

than price comparisons in determining the reasonableness of Northern's prices. There was no established competitive price for the goods or services in question, and the assured Bell market, for which Northern would incur little selling expense, would certainly enable Northern to adjust plant expansion and production schedules so as to produce economies of scale and lower unit costs of operation, and these advantages might eventually eliminate competition as a factor in price determination.

Dr. Thatcher submitted that Northern's prices to Bell should include a reasonable return on the capital employed in Northern's business, and that such return should ordinarily be at a level commensurate with that earned by other business enterprises with similar risks. He qualified this statement, however, by stating he considered the return to Northern on its sales to Bell should be at about the same level as the permissible rate of return granted to Bell.

He also recommended that the Board be furnished by Northern Electric Company with information, similar to that furnished to the Joint NARUC-FCC Subcommittee by Western Electric Company. Such information would include sales' data by main product classes, together with an allocation of the return on investment as between Bell and non-Bell business. If suitable allocations were made, without attempting to classify each separate item of expense, a reasonable result could be obtained without burdensome expense.

In conclusion, Dr. Thatcher stated that the profit earned by Northern Electric should not be included in Bell's consolidated income, so as to reduce the return requirement from telephone operations. Since about 40% of Northern's sales were made to non-Bell customers, there was no reason why any profits on this business should be applied to reduce the rate-of-return requirements from Bell's telephone operations, or that any losses on such non-Bell business should be borne by telephone operations in the form of increased return requirements.

During cross-examination, it was pointed out to Dr. Thatcher that Northern Electric Company was a wholly-owned subsidiary of Bell; that Northern's dividends necessarily flowed back to Bell; and that all such dividends had been taken into account by the Board in the past when fixing the permissive level of earnings for Bell. The witness was asked whether he was not also suggesting that Northern's profits on non-Bell business should now flow through Bell to Bell's shareholders, but his views on this matter could not be ascertained.

Mr. W.A. Simonton, the accounting witness, commented on Bell's Exhibit B-52, the price study audit of Northern's sales to the general trade which showed that the prices to Bell are less than prices to others, and stated that such study was completely inadequate for judging whether or not the prices paid by Bell to Northern are reasonable. He pointed out that the price comparisons were directed to categories of sales by Northern representing only about one-third of the sales by Northern to general sales customers. Although

the study stated that certain classes were excluded from the analysis because Bell does not normally purchase such product classes in significant quantities, no explanations had been given for certain other excluded classes.

The witness stated that the most important benefits accruing to Northern arise from the lower costs associated with its ability to plan production and to organize large-scale operations, given the assured long-term volume of sales to Bell. Northern would also have, in his opinion, lower selling, promotional and distributing expenses on sales to Bell than on sales to others. All such benefits would be reflected in Northern's costs and expenses and, without an examination of such costs and expenses, it would be impossible to determine whether Northern's prices to Bell were reasonable. By reasonable prices to Bell, the witness stated he meant prices which provided Northern with a reasonable profit, and not merely prices which were lower than Northern's prices to other customers.

In Mr. Simonton's view, it was possible for Northern to make excessive profits on sales to Bell and still comply with the Bell-Northern Contract requirement that sales to Bell were to be at prices as low as to Northern's most favoured customer for like materials and services. He referred to Bell's Exhibit B-52, showing price comparisons of telephone apparatus stock items sold by Northern, the Western Electric Company, and four other United States' manufacturers, and he observed that, as Western's prices were about 130% lower than those of the other four U.S. manufacturers, Western could raise its prices by 100% and still comply with a contract condition that its prices to United States' Bell operating companies be lower than those to non-Bell companies. In a similar way, Northern could sell to Bell of Canada at lower prices than those charged to outsiders and still make excessive profits on sales to Bell and price comparisons would provide no indication of this. Such comparisons were not an acceptable substitute for a thorough review of Northern's costs and expenses on products and services sold to Bell.

The witness expressed the opinion that a reasonable profit to Northern on sales to Bell was one which would yield Northern the same percentage return on capital employed in the manufacture and sale of products to Bell as is authorized as the permissive level of return on the capital employed by Bell. He went on to qualify this opinion, however, by stating that, even if Northern's overall percentage return on capital were no higher than that of Bell, it could not be assumed that Northern's return was not excessive because the net return on Northern's sales to Bell might be substantially higher than on sales to general customers.

In conclusion, Mr. Simonton stated that pricing policies between Bell and Northern, which resulted in increased earnings for Northern, would benefit Bell and Bell's subscribers only to the extent that such earnings were eventually

paid out as dividends to Bell. Future dividends, however, could be paid to Bell only to the extent they were declared by Northern's directors. It was also possible that expansion of Northern's business via retained earnings might represent a poor return on such funds, or that on some activities losses might be incurred.

Under cross-examination, the witness agreed that Northern's rate of return on non-Bell business should be left to the judgment of Northern's directors and should not be regulated. It was suggested to him by Counsel for the Bell Company, that it could easily be demonstrated arithmetically from Bell's Exhibit No. 88 that the proportion of Northern's total earnings paid out as dividends to Bell exceeded the proportion of Northern's Bell business to total business. The witness agreed that this was so but declined to accept any conclusion or inference from such a calculation and stated he had seen no Bell evidence which would support the proposition that Bell's dividends from Northern were a fair measure of Northern's earnings on sales to Bell. He also expressed the opinion that the cost of ascertaining the necessary data on which to make a judgment as to the reasonable cost of Northern's sales to Bell would not be prohibitive. As to Northern's retained earnings, he considered that if they were used wisely and profitably they could be beneficial to Bell's shareholders and might generate additional profits and increased dividends over the years.

2. SUMMARY OF EVIDENCE AT THE HEARING

(v) AS ADDUCED BY THE CANADIAN FEDERATION OF MAYORS AND MUNICIPALITIES, ET AL.

The main testimony on behalf of the Canadian Federation of Mayors and Municipalities, the Association of Ontario Mayors and Reeves, the Ontario Municipal Association, the Union of Quebec Municipalities (Union des Municipalités de Québec), and some 105 Municipal Corporations in Ontario and Quebec, was given by Mr. M.W. Van Scoyoc, President of the firm of Van Scoyoc and Wiskup, Inc., public utility consultants at Washington, D.C. Evidence was also given by Mr. Georges-Emard Courville, an employee of the City of Montreal whose duty it was to deal with matters relating to public utilities.

Mr. Van Scoyoc observed that Bell's proposal to change the method of measuring the permissive level of earnings, from one stated in terms of money dividends and surplus per share, to a percentage return on average total capitalization, would necessitate tests of the justness and reasonableness of both the debt capital and the shareholders' capital allowances. He stated he was not aware of any utility in the United States whose allowable rate of return was fixed on the basis of an allowance for dividends and surplus per share, and he was aware of only one situation where average total capitalization is currently used as the earnings base. At least two-thirds of United States' regulatory commissions now use original cost, less accrued depreciation, as the method

of rate base determination and, in most cases, this results in a rate base approximately equivalent to total average capitalization, although the determination of such rate base is generally more complicated than the capitalization method.

The witness pointed out that Bell's submissions of November 28, 1964, and its letter to the Board dated December 22, 1964, did not provide any substantive reasons why the current method of determining the permissive level of earnings is deficient or has been disadvantageous to shareholders or subscribers. His own research on this subject did not indicate anything which would require a change in the present method. He conceded, however, that both the earnings-per-share method and the percentage return on average capitalization would each constitute an equally correct measure of Bell's financial requirements and an adequate and practical means of fixing the earnings level.

In Mr. Van Scoyoc's view, the permissive level of earnings, or the authorized fair rate of return, must be just sufficient to attract the capital funds needed to meet the service requirements of customers. To this end, a utility's rates should be designed to produce sufficient revenue to cover all legitimate operating expenses, plus an amount sufficient to cover capital costs. He defined capital costs as those incurred in securing capital funds from the investing public. Such costs were represented by the effective rate of bond interest, and by the dividend rate on preferred shares, but the determination of the cost of common-share equity capital was a more complex matter which involved judgment. Although the terms "cost of capital", "rate of return", and "permissive level of earnings" were not necessarily synonymous, there should normally be little difference in meaning between them.

Mr. Van Scoyoc stated he proposed to test the reasonableness of an allowance for common shares by the use of (a) earnings-to-net-proceeds ratios, (b) earnings-price ratios, and (c) dividend-price ratios, techniques which he declared had been widely used and accepted as appropriate means for determining the cost of equity capital.

With respect to Bell's present debt ratio, he considered that the Company's capital structure was unduly conservative and that the proportion of long-term debt capital could be increased with a consequent saving in the cost of doing business. He stated that, during the period 1959-1964, Bell's debt ratio had ranged between 35.6% and 44.6%, and its debt coverage had varied between 2.4 times and 4.2 times; over the last five years, the debt ratio had averaged 40.8% and debt coverage had averaged 3.2 times.

Comparison was made between Bell's debt ratio and the debt ratios of other telephone companies, electric utilities, and natural-gas distributing and transmission companies. With the exception of the British Columbia Telephone Company, all such companies were located in the United States, and all of them,

with the exception of the Bell operating companies in the United States, had debt ratios in excess of 40%. Mr. Van Scoyoc stated that the low debt-ratio policy of these Bell operating companies had been the subject of criticism, both in financial circles and by regulatory commissions, and a number of State regulatory commissions had used hypothetical capital structures with a greater amount of debt as a means of determining the over-all cost of capital.

In the opinion of Mr. Van Scoyoc, it was essential to the purpose of regulation that a utility's capital costs be reasonable, because they were generally the largest single cost item. He considered a debt ratio within the range of 45% to 55% of total capitalization would not be unreasonable or unjust and he assumed that, if Bell were to increase its debt ratio, future capital requirements would be met largely through bond issues until such time as the debt ratio reached approximately 50%. This would require the addition of approximately \$360 million of debt capital, without any sale of additional shares. If this were accomplished over a three-to-four-year period, a maximum of one-tenth of one percent above the cost rate experienced by Bell in 1964 would ultimately be added to the cost of the additional debt. Since the difference in yield between Moody's Aa and A ratings for public utility bonds was currently 0.07%, the average cost of the combined existing debt and additional debt would approximate 4.85%.

In this connection, Mr. Van Scoyoc stated he had considered the risks inherent in a possible decline in revenue and operating income during a depression, assuming that the capital structure of Bell consisted of 50% debt and 50% equity. From studies he had made, he had concluded that such risks would not be significantly different from those which could occur under the present capital structure and he expressed the view that this would not justify the higher cost of capital inherent in the present capital structure, a higher cost which must be borne by subscribers.

As a test of the reasonableness of an allowance for the common shares of Bell, Mr. Van Scoyoc introduced a number of Exhibits, showing comparisons of (a) average annual earnings-price ratios; (b) ratios of earnings-per-share to net proceeds; (c) computations of earnings-price ratios, using projected earnings; (d) ratios of market value to book value of Bell's shares; (e) share-issue expense as a percentage of gross proceeds; (f) percentage market pressure, both on rights issues and public offerings of shares of utilities; and (g) in respect of the Bell Company, ratios of surplus to dividends per share, dividend-pay-out ratios and percentages of surplus to common stock and premium.

Schedule No. 9, filed by Mr. Van Scoyoc, showed average annual earnings-price ratios of 12 selected telephone companies and the Bell Company for each of the 12 years 1953 to 1964, together with an overall average for the period. In the opinion of the witness, it was necessary to determine average earnings-price ratios for a 12-year period because ratios for a single year, such as 1964,

would constitute only "spot" ratios; a longer period of time would have more validity because it would balance out short-term market fluctuations. He pointed out that there had been a general downward trend in earnings-price ratios during the period selected and that the average earnings-price ratio for Bell during the same period was lower than that for any of the other companies in the Schedule. He emphasized, however, that such ratios constituted a valid measure of the earnings-per-share likely to be received by the investor, subject, of course, to the effects of normal growth, share-issuance costs, and market pressure. Very few utility stocks were purchased on a short-term or trading basis; they were generally considered as long-term investments and many of them were classified as income stocks.

In Mr. Van Scoyoc's opinion, the cost of equity capital, at the time it was committed to the corporate enterprise, was the ratio of earnings-per-share to per-share net proceeds at the time of issue, provided the issue was made via competitive bid or underwriting. But where rights offerings were made at a fixed price below the prevailing market price, the ratio of earnings-per-share to net proceeds per share was of little significance in determining the cost of equity capital. Generally, the cost of capital raised through rights issues was higher than when issue prices and market prices were more closely related.

Because the rights issues were particularly prevalent in the case of telephone companies, it was necessary to utilize the earnings-price ratios or dividend-price ratios derived from stock issues by other utilities.

Mr. Van Scoyoc also stated that earnings-price ratios did not measure the full cost of common share capital because of the effect of two factors: (a) the cost of issuance, and (b) market pressure. Both such factors should be taken into consideration when earnings-price ratios were used as an indication of the cost of equity capital. Because earnings-price ratios were derived from market prices, they had to be adjusted for financing costs. Moreover, the permissive level of common-stock earnings had to be sufficient to attract additional share capital. Mr. Van Scoyoc had computed the percentage relationship between share issue expense and gross proceeds for the last ten Bell stock issues and had found that such relationship averaged 0.26%. As to market price of a utility's outstanding shares following a new issue, the witness said he had calculated negative percentage market pressures for each of the last four rights issues of Bell stock. During cross-examination, however, he agreed that the negative pressures shown by him were erroneous and that, on the contrary, the market pressures on new issues of Bell stock had been positive.

Mr. Van Scoyoc stated he would in his judgment allow 5% for financing costs and 3.5% for market pressure, a total of 8.5%, which would constitute an appropriate adjustment to the average earnings-price ratios of Bell and the other telephone companies shown on Schedule No. 9. He would not, however, make a

similar allowance where the indicated cost of equity capital was based on ratios of earnings to net proceeds, because such ratios automatically reflected financing costs and market pressure.

With respect to Bell's ratio of surplus-per-share to dividends-per-share, the witness observed that it was not as great as that of many other utilities whose dividend policy was based upon expansion requirements and eventual growth in per-share earnings, but he believed it furnished ample protection for the continuance of dividends at the current level even if a severe economic decline were to affect earnings. In his opinion, the accumulation of surplus should increase somewhat in proportion to the increase in capital stock and premium, so as to avoid dilution of the surplus per share by additional stock issues. Bell's surplus per share had, in fact, increased during the period 1949 to 1964 at a slightly greater rate than the increase in its capital stock and premium.

From his studies, the witness stated he had concluded that the appropriate and reasonable cost rate for Bell's common share capital would be 7%. The principal factor which had influenced his judgment was the capitalization rates at which investors had been willing to make capital available in exchange for common shares of Bell.

During the 12 years 1953 to 1964, purchases of Bell's shares on the open market were made at prices which, when related to the latest available earnings per share, indicated investor capitalization rates averaging 5.3%. During the last 10 years, the market prices on Bell's shares had, on average, exceeded book values by approximately 35%, and the relationship between per-share earnings and issue prices for the seven share issues made by Bell had averaged 6.7%. Since this average did not reflect issuance costs or market pressure, the witness stated he would make an allowance of 0.26% for issuance costs but no allowance for market pressure. The addition of 0.26% to the average ratio of per-share earnings to issue prices of 6.7% would produce an indicated cost of equity capital, based on rights offerings, of 6.96%.

The witness noted that, in 1958, the average book value of Bell's common equity was \$34.65 per share. If the permissive level of earnings of \$2.43 per share were related to this book value, the computed rate of return would be 7.01%. This rate of return, applied to average equity capitalization for 1964, was equivalent to earnings per share of \$2.59.

Mr. Van Scoyoc stated he had found no evidence of any significant increase in the costs of Bell's equity capital since the Board's 1958 decision. His proposed reasonable cost rate for Bell's equity capital of 7% therefore assumed the continuance of rights offerings to raise most of Bell's equity capital in the future; it was also consistent with the present capital structure of approximately 40% debt and 60% equity.

If, however, the Board were to adopt in principle Bell's proposal to establish a 7% permissive rate of return on total average capitalization, Mr. Van Scoyoc submitted that the formula proposed by Bell should be modified. He expressed the view that, since Bell was engaged in operations and businesses other than the furnishing of telephone and communication services, it was necessary to consider the propriety of using total capitalization as a basis for earnings and for the purpose of telephone rates.

As at December 31, 1963, Bell had investments in Northern Electric Company Limited, and in other items, amounting to \$64,757,282, or approximately 3.83% of Bell's total capitalization for 1963. At the end of 1964, this investment cost had grown to \$77,240,000, or 4.21% of total capitalization. Dividends from such investments in 1963 had provided an overall return of 9.49%, or a return of 15.28% on the investment in Northern and a return of 2.90% for other investments.

The witness considered that, under the Company's proposal, subscribers would provide Bell with the difference between 2.90% and the requested 7% rate of return, so far as companies other than Northern were concerned. At the same time, subscribers would receive the benefit from the difference between 7% and the 15.28% return on Bell's investment in Northern. Although on balance this would appear to provide a net benefit to subscribers, the witness noted that Northern's supplier relationship with Bell placed it in a special category, because Northern's profit margins on equipment and supplies furnished to Bell were capitalized in Bell's plant accounts. Thus, subscribers' rates would, in fact, be based upon the allowance of a rate of return on such profit margins. On the other hand, a part of such profit margins was also reflected in Northern's dividend payments to Bell and was included in Bell's income; it was therefore proposed to take this fact into account in fixing Bell's permissive level of earnings.

Mr. Van Scoyoc observed that the rate of return earned by Northern on its average total capital, and on its average common stock plus surplus, during the years 1958 through 1964, appeared to be substantially in excess of those earned by Bell from its telephone operations. He therefore proposed that the Board should adopt the procedure shown in his Schedule No. 21 as the method to be followed in determining Bell's average total capital, average equity capital, and the amounts of income to be related thereto. Under this procedure, average capitalization and related income in both Bell and its subsidiaries would be adjusted in such a way as to credit Bell's customers with that portion of Northern's earnings attributable to its sales to Bell, and to credit the shareholders of Bell and Northern with the balance of Northern's earnings derived from non-Bell business, the assumption being that Northern's profit margin was the same on both types of sales.

Mr. Van Scoyoc's adjustments were made to the capitalization of Bell and Northern as of two years, December 31, 1963 and December 31, 1964, and were

as follows. From the total capitalization of Bell, he deducted Bell's investment in companies other than Northern Electric and that portion of Bell's investment in Northern relating to non-Bell sales, this portion being calculated at the same percentage non-Bell sales were of total sales. The resulting adjusted capitalization was allocated to equity and to long-term debt in the same ratios as Bell's total capitalization and these adjustments and allocations were averaged. Bell's total income before interest charges for the year 1964 was then adjusted in the following manner: Bell's income from investments, as well as other interest payable by Bell, was deducted from total income before interest charges, and that percentage of Northern's net income for 1964 which represented the proportion of sales to Bell was added to the resulting figure. By relating this adjusted income to the adjusted total capitalization of Bell, Mr. Van Scoyoc calculated an overall rate of return of 6.49%. The adjusted income available for common equity was derived by deducting interest and amortization from the adjusted total income and, in this way, Mr. Van Scoyoc arrived at a rate of return on average common equity of 7.61%.

During cross-examination, Mr. Van Scoyoc agreed that, where a company's stock was sold on the market at prices above book value, the earnings-price ratio would be lower than the ratio of earnings per share to book equity per share. Counsel for Bell pointed out that, since the year 1960, Bell's earnings-price ratio had been substantially below Bell's long-term bond yield average. In reply, Mr. Van Scoyoc stated that the earnings-price ratios set out in his Schedule No. 9 could not be accepted blindly as a basis for the cost of equity capital; such ratios had to be carefully considered, tested and adjusted, a process involving judgment, or a personal appreciation based on experience. Schedule No. 9 showed that the average annual earnings-price ratio for the 12 utility companies he had selected was 5.3% for the twelve-year period 1953-1964. He had used this average ratio, plus judgment, as the basis for his calculations with respect to Bell, but he agreed with Counsel for Bell that the average earnings for these twelve utilities was in excess of 7% during the period 1959-1963.

Counsel for Bell referred to the Report of the National Association of Railroad and Public Utilities 78th Annual Convention and read extracts from the Report of the Committee on Rates of Public Utilities to the effect that stock-market prices had little validity as an indicator of proper earnings levels for regulated industry. Mr. Van Scoyoc, however, maintained that many United States' regulatory commissions did not pay any attention to this view. On the other hand, he agreed with Counsel for Bell that the only cases in 1964 and 1965 in which United States' regulatory commissions had adjusted the debt ratios of utilities were cases where such adjustments did not bring the debt ratio to a level higher than 40%. He stated further that he was not suggesting that the capitalization

of Bell was in any way inflated and he agreed that the United States did not have a telephone company sufficiently comparable to Bell to make meaningful comparisons of allowed rates of return.

With respect to his submission that the portion of Northern's profits relating to non-Bell sales should flow through to Bell shareholders, he was asked by Counsel for Bell how this could be achieved if subscribers were currently receiving the benefit of Northern's dividends to Bell. Mr. Van Scoyoc was unable to say how this might be done, but he insisted that Northern's profits added to a Bell shareholder's equity to the extent of Northern's retained earnings. He conceded that some of the sales ratios used in his Schedule No. 21 were based on incorrect information, but stated that the Schedule could be adjusted to take account of the correct figures which, as to rates of return, Counsel for Bell stated were 6.46% on average total capital and 7.56% on average equity capital.

The second witness called by Counsel for the Municipalities was Mr. Georges-Emard Courville, an employee of the City of Montreal whose duty it was to deal with matters relating to public utilities. Mr. Courville's evidence was directed to an explanation of his four Exhibits Nos. CM-3-1 to CM-3-4. Two of these exhibits showed what Bell's net income per share would be on the basis of debt ratios of 40%, 50% and 60%, subject to certain assumptions with respect to the average rate of bond interest. The other two exhibits set out in graphical form the relative variations in the rate earned on Bell's common stock equity and the rate earned on the industrials shown in Bell Exhibit B-45, pages 6 and 8, using 1949 as the base year.

During cross-examination, Mr. Courville disagreed with the suggestion by Counsel for Bell that the only way in which Bell's debt ratio could be increased was by increasing total capitalization by way of further long-term debt issues. On the contrary, he maintained that Bell's debt ratio could be easily increased by reducing the amount of equity capital. He agreed, however, with Counsel for Bell that his debt ratio exhibits had been presented only as an hypothesis.

As to his two graphical exhibits, Counsel for Bell requested that Mr. Courville prepare two similar exhibits for the Board, one of which would use as a base the average of the three years 1951, 1952 and 1953, the three complete years following the 1950 rate increase, and one of which would use the year 1951 as a base.

During argument, Counsel for the Municipalities reiterated his statement made at the commencement of the hearing, that his clients were willing to concede to the Bell Company earnings of \$2.59 per share or 7% on equity capital, or 6.1% on total capital. He also filed, during the course of the hearing, Exhibits CM1-1 to CM1-7 setting out certain financial, statistical and other data relating to the Bell Company and the Wholesale and Consumer Price Indices.

3. SUMMARY OF ARGUMENT AT THE HEARING:

A great deal of the Argument of Counsel consists in a summary of the essential points of evidence adduced during the course of a hearing. Because a summary of such evidence has been set out at some length in section 2 above, it will not be repeated here, except insofar as it is considered necessary to present Counsel's views with respect to matters which may not have been fully explored or resolved during oral testimony, or except insofar as required to make clear those points emphasized by Counsel. This summary of Argument will be primarily concerned with the regulatory principles advocated by Counsel, particularly those involving the permissive level of earnings and the basis for its assessment, and upon the jurisprudence cited by them. The omission of any particular points of Argument in this summary does not imply that such points were not given careful consideration and due weight by the Board in arriving at its decisions. All the Argument presented to the Board, which is set out in six volumes of the Transcript of Evidence totalling some 760 pages, has been carefully reviewed and considered by the Board.

(a) On behalf of the Company:

(1) The Origin and Purpose of the Enquiry:

At the opening of the hearings, Mr. J. L. O'Brien, Q.C., of Counsel for the Company, stated that correspondence with certain respondents, and statements made in the press and elsewhere, had indicated the existence of certain misconceptions with respect to the origin and purpose of the Board's enquiry into and review of the Company's affairs. It was quite incorrect to intimate, as had been done by some, that the present proceedings had been instigated by the Company. Notice of the Board's intention to hold the present enquiry came as a surprise to the Company, but it was the Board's view that, some five years having elapsed since its last review of the Company's finances, it was appropriate that another review be now undertaken.

As to the purpose of the enquiry, the Board's Notice of September 22, 1964 stated in detail what was to be included and what was to be excluded in the hearings and stated more particularly the Board's requirements in respect of the Company's submission. In Counsel's view, it was clear that the Board desired an investigation which would permit it to reach a determination of what might be the general area of a just and reasonable permissive level of earnings and the basis on which such a permissive level of earnings might be established. In addition, the proceedings were to be completely divorced from any consideration of an appropriate general level of rates. Despite this clear statement by the Board, there had been recurring reports that, should the Board determine a permissive level of earnings reasonably attainable by the Company within a reasonable period, such a finding would forthwith be followed by a request for

an increase in the general level of rates. Nothing, said Counsel, was further from the Company's intention.

Before the issuance of the Board's Notice, the Company had had in mind certain general objectives in respect of a permissive level of earnings which it felt would be required in the general interests of its subscribers, its shareholders, and the national interest. The attainment of such objectives, however, had not been related, and was not now related, to any potential increase in the general level of the Company's rates, neither had they previously been spelled out in the detail required by the instructions in the Board's Notice.

In this connection, Counsel noted that there were two diametrically-opposed concepts of management of a regulated industry: the "cost-plus" concept and the "profit-incentive" concept. The first concept assumed that regulation would always strictly limit profits and that any increase in allowable profits could flow only from increased rates. The second, and opposite, concept recognized the profit motive as a prime incentive for most efficient management, management being spurred on to increase profits within its existing price framework by promotion of services and active control of expenses. It was this latter concept which the Company had had in mind.

Although the Company did not make detailed long-range forecasts, there were certain well-recognized criteria which permitted the establishment of general objectives and the assessment of the reasonableness of their attainment. Leading economists had forecast an annual growth in the volume of Gross National Product of about 5%, with price increases being limited to some 2% annually. Based on such assumptions, as well as on the required incentives to provide needed revenues while rigidly controlling expenses, the Company confidently asserted its intention to achieve its objectives without any increase in the general level of rates. At the same time, said Counsel, it would be hypocritical to suggest that circumstances, now unforeseen, might not arise at some time which would require a review of the general level of the Company's rates by the Board, but he wished to reiterate that such a review by the Board had not been, and was not now, in contemplation by the Company.

(2) Review of Operations, Revenues and Expenses:

The six-year period under review was characterized principally by growth in all aspects of telephone service and by the increased value of the service provided to the Company's customers. All these advantages and others had been available to customers at about the same local rates as they paid at the end of 1958 and at lower rates for certain classes of long-distance calls. During this period of stable telephone rates, the Consumer Price Index had increased from 127 to 137, municipal and provincial sales and telephone taxes on a per-telephone basis had increased by 145%, and personal incomes in Ontario and Quebec had

improved by more than 20%. Thus, stable telephone rates represented a real reduction to customers in the relative cost of telephone service. In this connection, the Company's Exhibit No. B-17 showed that the real cost of telephone service to the Company's customers was the third lowest in the world.

The quality and reliability of service was improved appreciably during the period under review. A number of new services were introduced and the Company continued to give prompt installation service to all its customers. Despite the trend towards automation of telephone service, particular attention was given to the provision of personal service to customers where required. There was also a considerable increase in the scope of service available to customers. In the light of this formidable record, Counsel submitted that the Company had made great strides forward and had contributed significantly to price stabilization and higher customer living standards.

Throughout the period under review, the Company had successfully pursued its objective of developing to the maximum the revenue opportunities provided by the existing rate structure. The increase in operating revenues over the period chiefly reflected a change in volume rather than price, but at the same time higher telephone development and greater use of long-distance and other services had resulted in a greater proportion of revenues from discretionary services. Thus, the revenue risk of the Company had increased, because customers could disperse with, or reduce their use of, certain services in times of economic adversity. The increased volatility of revenues, arising from the higher level of telephone development, the higher proportion of long-distance revenues, and the wider variety of available services, could have a greater adverse effect on revenues than in the past.

Operating expenses during the period under review had been characterized by increased control by management and by increased rigidity. Compared to an average annual increase of 7.6% in operating revenues, operating expenses were held down to an average annual increase of 6.0%. Expense control was also indicated by the decline in the operating ratio from 68 to 63, and by the decline in expense per \$1,000 of plant from \$180 to \$154.

The number of employees declined from 39,000 to 36,000 during the period and employee expense per \$1,000 of plant dropped from \$92 to \$71. In absolute terms, employee expense increased by \$26 million, from \$131 million to \$157 million, \$20.5 million of the increase being the result of bargained wage increases and salary adjustments and \$5.5 million being due to changes in the composition of the work force and improved fringe benefits. Over the past 20 years, the Company had made annual wage surveys which permitted it to compare the wage rates of outside industry for comparable jobs and to ascertain changes in community wage levels. Using this information, the Company attempts to negotiate wages comparable to outside industry for comparable work skills in like communities, so as to attract and retain employees with the required skills.

In this connection, Counsel for the Canadian Federation of Mayors and Municipalities, Mr. L. C. Carroll, Q.C., had introduced Exhibit No. C.M.-1-7 with respect to employee compensation, apparently with the object of showing the Company's average compensation had increased by a higher percentage than that for public utility employees generally. Counsel for the Company stated he had examined the D.B.S. Employment and Payrolls Report of December 1964 and had found that the public utilities referred to in this exhibit comprised electric, gas manufacturing and distribution, water and sanitary services, and other utilities, but not telephone utilities. It was therefore obvious that no meaningful comparison could be made between the public utilities' average wages shown in the exhibit and the compensation paid by the Company, because there was no evidence that such utilities were comparable to the Company. Although this exhibit demonstrated that the percentage increase in the average compensation paid to the Company's employees might have been greater in the period covered by such exhibit than that paid by the public utilities shown in the exhibit, it also showed that the average compensation paid to employees of these utilities was well in excess of that paid by the Company. Beyond that, the exhibit had no significance, and Counsel submitted that the Company's Exhibit No. B-82 established beyond any doubt that the Company was paying comparable wages for comparable work; thus, on the evidence, the Company's wages were reasonable and proper.

Counsel submitted that it was clear great advances had been made in the control of employee expense, an important factor in which had been the substitution of labour by capital to a greater degree than in the past. Total telephone plant per employee had risen from \$41,500 at the end of 1959 to \$65,000 at the end of 1964. While the carrying charges on this higher level of investment had partly offset the relatively lower employee expense, the increasing rigidity of employee expense appeared to be the more significant result. There was now less opportunity for work force adjustments to meet varying economic conditions.

Due to increasing technological change, obsolescence had become more predominant in recent years and this had brought about increasing depreciation expense. Depreciation expense was now the second largest item of operating expenses, accounting for about 31% of total operating expenses. Although it could be controlled in part by effective use of capital and by making the longest economical use of existing plant, it was rigid in the sense that it was not susceptible of immediate control or reduction should revenues decline. It therefore followed that operating expenses were becoming more rigid as this component of expense grew and that the risks of the business were thereby increased.

Other expenses increased from \$60 million in 1959 to \$80 million in 1964 and varied throughout the period between 23.3% and 23.9% of total expenses. Generally, such expenses reflected normal increases, principally due to growth in business.

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With respect to the use of data-processing equipment by the Company, Counsel submitted that it was clear the Company was making full use of technological advances in its efforts to control expenses and to increase service to customers.

During cross-examination, Counsel for the Municipalities, Mr. Carroll, had questioned the witness concerning basic and non-basic services, which Mr. Carroll had termed horizontal growth and vertical growth, but the Company did not recognize such alleged distinctions. While it was true that revenues from services other than main telephones had increased during the period at a faster rate than revenues from main telephones, it was to be expected that, as the standard of living rose and society became more complex, the demand for more sophisticated services would increase faster than the demand for main telephones. In time, such new services would be considered just as basic as the black two-party telephone might have been at one time. If there were any suggestion that the Company ought not to develop new services, that would imply that the Company ought to stand still, ignore technological change, and impede the progress of all who depended on it for modern and efficient communications. This was quite unthinkable and it was desirable that the Company pursue its present policy of providing and operating a wide variety of modern communication services promptly and efficiently.

(3) Construction Expenditures:

The outstanding feature of the Company's construction programme in the post-war era was the fact that it was a continuing programme that had never ceased. The trend of expenditures, with small variations, had been ever upwards. In the immediate post-war years, the emphasis had been on the need to meet the demand for service, or for a better grade of service. This demand had now been satisfied, but this had not meant a halt in construction. Canada was in a continuing period of growth which, coupled with the explosion in technology, meant that no significant reduction in construction expenditures could be anticipated in the foreseeable future.

In order to justify construction expenditures, it was not enough to foresee a reasonable return on the projected expenditures. The foremost consideration was the present and future return upon existing investment, a factor that was extremely important both in terms of the attraction of capital and in terms of prudent investment. As to the question of what might occur in the event of a serious recession, Mr. Lester had hazarded a guess that expenditures might possibly be reduced by about 15%. This, however, would not materially alter the Company's long-range programme. Any temporary slow-down in the programme would have to be compensated by a corresponding increase during a later period; thus, the overall capital needs of the Company and the required financial health would remain unchanged, recessions assumed or not.

The Company's evidence had clearly justified the need for a construction programme of the size described, both from the engineering and the economic points of view. If that programme were to be fulfilled, the credit and financial

stability of the Company had to be maintained at the best possible level. This requirement of financial health was essential for both present and future subscribers and was also a significant factor in the prosperity of the Canadian economy as a whole.

(4) The Service Agreement with the A. T. & T.:

Counsel said that the true cost of telephone service to the subscriber was determined by the skill of management and that the evidence adduced had established that the Company's management was efficient. That efficiency had been achieved, not simply by obtaining the best possible executives, but also by ensuring that these executives had three essential factors available to them. These factors were: (a) access to research in quantity and depth not enjoyed by any other comparable organization in Canada; (b) access to managerial intelligence of a high degree and to management experience in the telephone and related fields; and (c) the ability of management to translate research into physical plant and equipment capable of meeting communications needs at reasonable cost to subscribers.

As to the first factor, the Company had been meeting its research needs in two ways: by the establishment of the Northern Electric Research and Development Laboratory at Ottawa, and through its Service Contract with the A. T. & T. The present annual cost of the research being done by Northern was about \$7 million, but it would be impossible for that laboratory to produce research other than that peculiar to Canadian conditions. The Canadian economy could not support the level of development expenditure required to produce major developments, such as the No. 1 Electronic Switching System, or to produce them in a quantity and variety that would match the output of the Bell Telephone Laboratories in the United States. Thus, the Company had to turn to the second source of research available to it under the Service Contract.

Counsel reviewed the history of the Service Contract with the A. T. & T. and quoted the testimony in the 1950 rate increase hearings before the Board of Mr. Macaulay, the Executive Vice-President of the Company who had negotiated the present contract, dated July 1, 1949. The Service Contract had its origins in the agreements with the A. T. & T. flowing from the Company's purchase of Bell patent rights in 1880. The Company soon found that it needed further development and technical assistance from the A. T. & T. In the nineteen-twenties, the Company's need for more comprehensive services than were available to it as a courtesy led to the first Service Agreement of 1923 under which the remuneration to the A. T. & T. was specified as 1½% of gross exchange and toll revenues. In 1929, this remuneration was cut for a time to 1%, with an option to return to the 1½% on six-months' notice. By 1949, the A. T. & T. financial interest in the Company had decreased to 12%, compared with its present 2.6%, a proportion which gave no control or compulsion over the

Company. Thus, the 1949 Agreement had been negotiated at arm's length and all aspects of that Agreement had been subject to debate, discussion, disagreement and compromise.

In his 1950 testimony, Mr. Macaulay had stated that, in his negotiations with the A. T. & T., he had tried four different possible alternative bases of settlement and that the revenue basis had produced the lowest figure. The A. T. & T. had somewhat similar agreements with 21 associated operating companies in the United States, based on a percentage of revenue, and it was entirely unwilling to make an agreement with a foreign company on a different basis. A revenue basis was simple and practical; in addition, this basis was the best measure over the years as to the value of the services involved in the Agreement.

Under the Service Agreement, the A. T. & T. undertook to prosecute continuously fundamental research, investigation and experimentation in telephony, in addition to providing the Company with management information, advice and assistance in engineering, plant and traffic matters. It also granted the Company non-exclusive licences under the many patents owned by A. T. & T. and, in addition, the A. T. & T. undertook to negotiate Canadian patent rights on patents purchased by it. In this connection, a Company witness had testified that the free use of such patent licences had a current annual value to the Company of some \$1.5 million.

Among the many significant systems and techniques developed by the Bell Laboratories over the years had been the development of the transistor in 1948, the development of the solar battery in 1954, high-quality antenna designs, the negative feed-back principle, and the development of electronic switching. This latter development had involved research costing some \$100 million. The Company's management had decided to implement this development of electronic switching, because it would permit expansion of the network within existing buildings since it would take up only one-third the space of existing equipment.

Counsel reviewed the evidence of the Company's witness with respect to the estimated savings flowing from the Company's adoption of research developments of the Bell Telephone Laboratories as well as the Company's views concerning the difficulties that would arise if it were unable to support such research and development programmes. All this, he emphasized, was a vital link in the ability of the Company to keep up with the increasing demand for communications services and to provide them at the rate they were needed. Counsel also submitted that the intelligence and data furnished under the Agreement to all levels of management were just as important as the research component.

In conclusion, Counsel noted that the actual cost to the A. T. & T. of furnishing service to the Company was some \$5.1 million in 1964, compared with the Company's payment in that year of some \$4.7 million. He also pointed

out that the Company had prepared Exhibit No. B-86 in response to a request from Counsel for the Municipalities, showing the results of applying the decision of the California Public Service Commission, [53 P. U. R., 3rd., page 513], to the A. T. & T. cost allocations shown in Exhibit No. B-9. On the basis of that decision, the return to the A. T. & T. would have been some \$70,000 in excess of their costs. Finally, Counsel observed that the Company had the privilege under its Service Agreement of extending its benefits, other than the free use of patent licences, to other telephone companies in Canada and had received some \$838,000 in remuneration from this source in 1964.

In Counsel's view, it was absolutely vital that the Company have available to it the research of Northern, the Bell Laboratories, and the general department of the A. T. & T., as well as the management tools and intelligence necessary to organize and keep the present system working in an efficient and satisfactory manner.

(5) The Company's Pension Plan:

Counsel stated that the Company's Pension Plan was fully dealt with during the 1949-1950 rate hearing and that the Board's Judgment following that hearing contained a concise summary of the various features of the Plan. With the substitution of updated figures, the same words as used by the Board could be used today, taking into account the changes in benefits described by the Company's witness in the present proceedings. The following quotation from the Board's Judgment in the 1949-1950 case, 67 C. R. T. C. 1, at page 33, was cited by Counsel:

"It may be said that the Respondents did not produce any alternate existing pension scheme for comparison or the Board's consideration but founded their allegations upon argument and cross-examination of the Company's witnesses. So far as the scheme may be unreasonably liberal, except for comparisons with other schemes submitted by the Company, the Board has no means of comparing. With regard to these latter, a review of the evidence and Exhibit No. 77 mentioned above, would seem to clearly indicate that the Company's scheme has no excessive liberality about it nor that, in this respect, it is abnormal in any way. On the contrary from what is before us, I would be inclined to say it is a very satisfactory scheme to both the employee and to those called upon to provide for it. The only evidence given would indicate that, although non-contributory, in the long run it will be less burdensome than a contributory one. In so far as the funding on an annual actuarial basis is concerned this is essential to place the scheme on a sound, actuarial basis and I think criticism would be justly due to those charged with the responsibility of administering the fund on behalf of the employees if this were neglected. Consequently I would consider it a proper charge against expenses in addition to the annual

accruals. On the whole I find nothing in the scheme itself or the methods and computation used to finance it that should be objectionable to subscribers."

Counsel stated further that the matter of pensions was again reviewed during the 1957 rate hearings and was dealt with in the Board's Judgment of January 10, 1958, (76 C. R. T. C. 267, at page 296), as follows:

"While Respondents suggested that a saving in expense might be effected by the introduction of a contributory pension plan in lieu of the present pension plan which is entirely at the expense of the Company, the Board is not persuaded either that it should at this time reverse its previous findings that the cost to the Company of its pension plan is a proper expense or that a contributory pension plan would necessarily result in a saving in total expense."

In conclusion, Counsel submitted that nothing had been shown that would lead one to think that the terms and conditions upon which service pensions were provided to the Company's employees were in any way unreasonable, or that anything had changed since the Board's decisions of 1950 and 1958 which would lead the Board to change the views it held at those times. The pension plan operated to the benefit of the Company, its employees, and thus, to the ultimate benefit of its subscribers.

As to the suggestion that there could be any other method of financing the Company's pension plan other than on a fully-funded basis, discussion of this would be of academic interest only because it was apparent that the law currently in force in Ontario and that contemplated by Bill 52 before the Quebec Legislature both required that pension plans be fully-funded.

(6) Depreciation:

Counsel noted that depreciation had been examined in great detail in the 1950 rate case and was also considered in the 1952, 1957 and 1958 cases. He stated further that the average depreciable plant in service in 1959 amounted to \$1.4 billion. It rose to \$2.2 billion in 1964, or by about \$800 million. Depreciation accruals rose from \$68 million in 1959 to \$110 million in 1964, an increase of some \$42 million. Of this increase, \$35.6 million was the result of growth in plant and \$6.4 million was the result of changes in depreciation rates. Practically the whole of the increase of \$6.4 million was due to rate changes in three accounts: Station Apparatus, Station Connections, and Aerial Wire-Exchange. The composite depreciation rate which was 4.83% in 1959 moved up slightly to 4.994% in 1964.

The depreciation rate for Station Apparatus increased during the six-year period under review from 5.9% to 7.2%, because of shorter location life of equipment which was principally the result of a marked increase in population move-

ments. The rate for Station Connections rose from 12% to 13% during the same period, a rate which was dictated by outward movement of telephones. The rate for Aerial Wire-Exchange increased from 8.2% in 1959 to 13.6% in 1964 due to the replacement of inadequate open-wire lines by cable and to the other causes mentioned by the witness.

The Company's witness, said Counsel, had dealt with the fundamental concepts of depreciation and had summed them up by saying that the cost of depreciable property was a prepaid expense of the business that had to be progressively charged in the accounts as part of operating expense. The witness had also explained how depreciation rates were determined and had testified that the Company maintained an extensive system of engineering and accounting records which was updated from day to day and also carried out comprehensive annual engineering studies to determine applicable depreciation rates.

In its depreciation rate studies, the Company used the straight-line group method. Such method had been used by the Company since the introduction of depreciation accounting in its system of accounts. It had been reviewed by the Board in the 1927 case and again in 1950, 1952, 1957 and 1958; it had never been questioned by respondents in any of these cases. Even though Mr. Benson, who had testified for respondents in the 1950 case, had criticized the way in which the Company used the study methods, he had raised no objection to the straight-line group method itself. This method was generally used by telephone companies on the North American continent and was the method approved by the Federal Communications Commission of the United States. Counsel for the Municipalities, Mr. Carroll, had questioned the witness on the straight-line remaining-life method and the declining-balance method, but had adduced no evidence to explain them, or to show that both or either of them were superior or more appropriate than the straight-line group method. The Company's witness had said, however, that neither of those methods was as good as the straight-line group method in determining depreciation rates for the Company's plant.

In conclusion, Counsel referred to the Company's Exhibits Nos. B-83 and B-84. Exhibit No. B-83 set out the composite depreciation rates of Canadian telephone companies for the year 1964 and Exhibit No. B-84 showed depreciation rates by accounts for the Company and for all subsidiaries of the A. T. & T. He stated that the composite depreciation rate of one company could not be properly or meaningfully compared with that of another, even though both might have the same system of accounts and use the same methods for determining rates, because the depreciation rate for each account would be affected by the following factors:

- (a) The investment in each category;
- (b) The retirement experience of the company;
- (c) The operating policy of the company;
- (d) The demands within the company's territory;

- (e) The company's construction programme;
- (f) Growth in the territory of the company; and
- (g) Government construction activity in that territory.

If, however, one were to look at the composite rates shown in Exhibit No. B-83, one should be careful to observe that some companies depreciated Station Connections while others did not. Counsel then referred to the following comparisons taken from Exhibit No. B-83:

COMPOSITE DEPRECIATION RATES - 1964

	<u>Bell</u>	<u>B. C. Tel.</u>	<u>Maritime Tel. & Tel.</u>	<u>Alberta Govt. Tel.</u>
Including Station Connections	4.99%	5.25%	4.73%	—
Excluding Station Connections	4.42%	—	—	4.26%
	<u>Manitoba Telephone</u>	<u>New Brunswick Telephone Co.</u>	<u>Saskatchewan Govt. Telephones</u>	
Including Station Connections	—	—	—	
Excluding Station Connections	4.20%	4.72%	4.94%	

With reference to Exhibit No. B-84, showing depreciation rates for eight accounts in respect of the Company and all operating subsidiaries of the A. T. & T. for the year 1964, Counsel noted that the rates of some A. T. & T. subsidiaries were higher, and that the rates of others were lower, than the Company's rate.

(7) The Company's Relationships with Northern Electric Company Limited:

Counsel referred to his previous submissions with respect to the Service Agreement with the A. T. & T., in which he had said that management, in order to maintain its efficiency, had to have three things: the flow of research; the flow of management intelligence; and the ability to turn good planning into efficient equipment. The ability or capacity to do the latter was available to the Company through its relationships with Northern Electric.

In this connection, Counsel thought it would be helpful to recall the early history of the Company as an illustration of those relationships. The evidence had been that, in the earlier years of the Company's operations, it had been found impossible to produce satisfactory apparatus, wire and cables in Canada, and that the Company had had to choose between importing plant at great cost, or giving an unsatisfactory service, or undertaking the risks involved in inaugurating manufacture in Canada of the required plant. The latter course had been chosen and the predecessor companies of Northern Electric were organized by the Company and the Company took capital stock therein. From the very first days, however, the basic problem of the manufacturing arm had been the

fluctuations in Bell's demand. Contrary to some suggestions that had been made, Bell had not been a constant taker of a known volume of production. In 1891, there had been an initial demand for 2,874 telephone sets annually, but that demand had dropped to 975, a tremendous change at the time. Prior to World War I, Bell had taken 30% of manufacturing output. During that War, the percentage taken had dropped to 20%, and in the nineteen-twenties it rose to 58%. With the onset of the depression, Company demand declined by two-thirds, but fortunately the general sales of Northern did not decline to anything like the same extent. During World War II, Bell's purchases from Northern dropped to 15% of Northern's sales.

Counsel pointed out that the Company's witness had said that, by having this separate manufacturing corporation, Northern, the Company had been able in the periods following the first and second World Wars, and in the period following the depression, to convert planning into equipment and solve the post-war demands on its system. At the same time, Northern had been able to preserve the reservoir of skills, craftsmen and plant with which to provide the needed equipment.

During the nineteen-fifties, Bell's purchases from Northern had moved up into the 50% range, but the figures showed that there had been very substantial fluctuations in the volume of purchases, even in the period since 1958. Counsel said that the reason he had drawn attention to this past history was partly because Northern had been described by at least two of the respondents' witnesses as if it were operating a virtually riskless business in which there was a relatively steady demand for its products. There had been the suggestion that Northern had a kind of captive market and none of the problems of a normal manufacturing business. It was, however, quite apparent from Exhibit No. B-56 that the fluctuations in Northern's total sales were comparable with those in the electrical apparatus and supply industry and that such fluctuations were greater than those for all manufacturing industries. Exhibit No. B-89 showed the same information as Exhibit B-56, but with the addition of a line showing Northern's sales to Bell, and had been prepared by the Company at the request of Counsel for the Municipalities. This exhibit, said Counsel, illustrated graphically the importance of Northern having both sales to Bell and sales to the public generally, because Northern's sales to Bell had exhibited greater fluctuation than total sales. Thus, Northern had been able to spread out the ebbs and flows by means of its non-Bell business and if Northern were to be solely dependent on Bell purchases, the risks of business would be greater than they were at present and greater than they were in the ordinary electrical or manufacturing industries. In fact, concluded Counsel, the single-customer concept increased the risk instead of reducing it.

The alternatives to having the Northern manufacturing operation, said Counsel, had been discussed at some length by the Company's witness who had considered the alternatives of competitive tenders and contracts with one or several suppliers. That evidence made it abundantly clear that there was no realistic alternative for Bell, once it was recognized that each item supplied must be compatible with the whole complex network of the Company's system. The value of the research facilities now available to the Company would be wasted unless they could be quickly communicated to the manufacturer and understood by him. Old equipment, unless it were maintained by a multitude of repair parts, would become obsolete prematurely. Household articles, for example, become useless at a certain point because the manufacturer was producing new models and it was not economical for him to maintain and sell old parts which were vital to continued use of such articles. If one were to deal with a new manufacturer, that manufacturer would have to recover in his early models a fairly high cost of development through a high price, a cost which would be paid by the purchaser even if a different manufacturer later supplied the article. However, through its relationships with Northern, Bell's development costs were in fact recovered in later prices. A further factor in Bell's relationships with Northern was that Bell could call upon Northern for output to meet such emergencies as the damage caused by sleet storms.

The Company's witness had also testified as to a study of the methods used in various countries from Japan to Sweden which had satisfied the Company that these countries had not achieved better results; in fact, they had achieved poorer results and had had to set up checks and balances as controls on outside contractors. All the factors that had been described, submitted Counsel, established the absolute necessity of maintaining the existing Northern-Bell relationships. With no outside shareholders, Northern reaped any benefit from those relationships and was free to broaden its sales base so as to reduce fluctuations in demand and obtain the longest and cheapest production runs possible.

Counsel referred to the Company's Exhibit No. B-57 showing a comparison of the return on total capital and on equity capital of Northern and of the average return of 65 Industrials (Montreal Stock Exchange List) for the years 1949 to 1963. He noted that the average return on total capital for Northern for the years 1949-1963 had been 10.26% and that, since 1957, Northern's return on total capital had ranged from a low of 5.98% in 1961 to a high of 9.94% in 1959. In Counsel's opinion, Northern's return was very reasonable for a manufacturing industry of this type. The average return on total capital for the 65 Industrials, in the period since 1957, had ranged from 7.67% to 9.16%; this return was in the same general area as Northern's return, although Northern's return had been somewhat lower during that period. Northern had enjoyed sales in both domestic and foreign markets at prices higher than those it charged to Bell and its return on capital was modest and reasonable. If Northern could maintain its competitive

business at higher prices than it charged Bell, and its return was reasonable, this indicated that Northern's prices to Bell were reasonable.

Dealing with the evidence in respect of Northern's prices to Bell, Counsel pointed out that Bell was not obligated to buy anything from Northern, but that Bell in fact did make the greatest part of its purchases from Northern in all areas in which Northern had products available. The exact requirement as to Northern's prices to Bell was set out in Article II of the Supply Contract, (Exhibit No. B-50), reading as follows:

"The Telephone Company will pay the Electric Company's prices for materials of Electric Company manufacture and for equipment specifications and installations. Such prices shall be established from time to time by the Electric Company and shall be as low as to its most favoured customers for like materials and services under comparable conditions..."

To satisfy itself that this obligation of Northern is being met, the Bell Company has an audit made on the basis of a random sample of about 8% of contract sales, (representing 5% of the number of contracts closed during the year), and on the basis of one-day's sales per month, for sales other than contracts, (representing about 5% of such sales). This, Counsel submitted, was a very large sample involving a tremendous amount of detail. The audit sample of contract sales included crossbar, step-by-step, manual and carrier equipment used in exchange installations and the audit was not confined to checking the items of equipment which made up the design contract requirements; engineering, installation and transportation charges were also studied and compared with the corresponding charges on non-Bell contracts. Considering the depth and breadth of this sample, said Counsel, the conclusion of the audit report was clear and unequivocal: "We report that in the case of all items examined by us with the exception of minor clerical errors the prices charged to general sales customers were higher than the equivalent Bell Telephone Company of Canada prices." (Exhibit No. B-52).

The audit report by Touche, Ross Bailey & Smart, Chartered Accountants, (Exhibit No. B-52), said Counsel, had been criticized by Mr. Simonton, a witness called by Industrial Wire and Cable Company Limited, in the following words:

"With reference to the Touche Ross Report itself, it should be noted that the price comparisons were directed to categories of sales by Northern representing only about one-third of the sales by Northern to general sales customers. For some classes of sales the Report states that they were excluded from the analysis because Bell does not normally purchase the products in sufficient quantities. For other excluded classes, however, no explanations are given for the exclusions, for example export sales and sales of products not manufactured by Northern. Sales of products of a type not manufactured by Northern are substantial, amounting in 1963 to \$84.7 million, and such products are sold in quantity to both Bell and general sales customers."

Counsel noted that the Company's Exhibit No. B-88 indicated that the non-Bell sales of Northern in 1963 amounted to about \$130 million. The distribution of such non-Bell sales was as follows: Exports - \$7 million; Non-Northern Manufacture - \$61 million; Categories mentioned in the Touche, Ross Audit - \$40 million; and Non-Bell Type and Other Exports - \$22 million. If, said Counsel, the Board saw fit to investigate the 1963 sales breakdown, it would find that the audit sample covered virtually all categories (except exports), in which Bell was a purchaser of any quantity of material.

Pages 1 and 2 of the Touche, Ross Audit Report listed the classes of sales that were excluded from the analysis and Counsel said he would deal with each one specifically. These classes were:

- A. Export Sales.
- B. Sales of Communications Equipment Division, Belleville.
- C. Special contracts and sub-contracts in connection with the Government Defence Program.
- D. Not N. E. Merchandise Sales representing products of a type not manufactured by the Company.
- E. Reels and Lags Sales - although billed to customers they are subject to credit on return.
- F. Specified classes of wire and cable sales which Bell does not normally purchase in significant quantity.

Counsel pointed out that Class A, Export Sales, had been the subject of an entirely separate audit, that a Company witness had testified on this particular audit, and that Exhibit No. B-76 showed from that audit that Northern had been able to sell in the United States at prices 22% to 24% higher than the prices to Bell. In 1964, the volume of such export sales to the United States had been some \$11.5 million. The Touche, Ross Audit, on the other hand, showed that Northern had sales of some \$40 million in the domestic market of items comparable to those sold to Bell and such items were sold at prices higher than those to Bell. As to Class B, this covered fire-alarm, police-signalling, and traffic-signal equipment, items which could not be used for comparison because Bell either made no purchases of them, or made purchases of less than 1%. Class C covering contracts for the Government Defence Program referred to items that were not comparable with those purchased by Bell, since Government requirements had entirely different standards. Class D was not audited because it consisted of items for which Northern acts as a purchasing agent for Bell under the provisions of Article II, paragraph 2, of the Supply Contract. Under those provisions, Bell paid the invoice price to Northern and paid to Northern taxes, transportation, and handling remuneration, but the articles covered by such provisions were not sold to Bell in any sense of that word. Class E consisted of reels and lags on which refundable deposits were paid. Class F covered

classes of wire and cable sales which Bell did not normally purchase in significant quantity; Bell's purchases of such classes amounted to less than 1%.

Mr. Simonton had concluded his criticism of the Touche, Ross Report by saying that it would have been considerably more informative if it had shown for each included, and each excluded, class the amounts of sales to Bell and to general sales customers. Counsel said that when one recalled the purpose of the Touche, Ross Audit, which was to ensure that Article II of the Supply Contract was being complied with, Mr. Simonton could not be talking of more information that would enable Bell to accomplish anything or would enable the Board to carry out its responsibilities; he could only be talking of more information that would be of assistance to the Industrial Wire & Cable Company or other persons in the same field. But the value of that information, even to Industrial Wire & Cable, ought to be put in proper perspective; Northern's sales in the area where it competed with Industrial Wire were only some \$13 million, about 4% of its sales and only about 13% of the Canadian market for these items.

In Counsel's submission, the only conclusions that could be drawn from the Audit were that Northern was efficient, that it gave Bell lower prices and still had a fair share of the market at home and abroad, and that its profit margins in the context of Exhibit No. B-57 were reasonable and in line with those of similar enterprises.

During the course of evidence, said Counsel, some attention had been drawn to the provisions of the Supply Contract dealing with purchases by Northern from Western Electric of components to be incorporated into apparatus supplied to Bell. This element, however, amounted to only about 1.3% of all Northern's purchases to make up its sales to Bell and, in such purchases, Northern was not acting in the capacity of purchasing agent for Bell.

With respect to the purchasing agent function, performed by Northern for Bell, the evidence had been that Bell dealt with Northern because it considered Northern could perform this service better, or at least as well, and more economically than Bell could do it itself. Northern had to have its own inspection, purchasing and warehousing organizations and Bell avoided duplication of like facilities by having Northern perform such services for it. Remuneration for Northern's services as purchasing agent was based on studies of Northern's costs made on a regular review basis by a committee of Bell and Northern, an adjustment being made at the end of each year if the amount paid under annually established rates of remuneration did not equal the actual expense incurred by Northern.

Dr. Lionel W. Thatcher, a witness called by Industrial Wire & Cable Company, had made much of the fact that, on items of Northern manufacture, Northern did not disclose its costs or cost allocation, nor did the Board require it to do so. In Counsel's opinion, an examination of Dr. Thatcher's evidence revealed

that he gave three reasons for his views: (a) that some 46 States in the United States exercised jurisdiction over transactions with affiliates; (b) that NARUC, (the National Association of Railroad and Utilities Commissioners), asked for cost allocations; and (c) that the Uniform System of Accounts prescribed by the FCC, (Federal Communications Commission), for Class A and Class B telephone companies included in Item 3.01-2 a statement requiring the segregation of charges that were not just and reasonable.

Counsel suggested that the whole of Dr. Thatcher's evidence had to be viewed in light of the fact that he was deeply steeped in the American telephone scene. The depth of his involvement could, said Counsel, be very clearly apprehended from his frequent use of the phrase "affiliated company". While this phrase described something in the United States quite aptly, it was unrealistic to apply it to the Canadian scene, and Counsel submitted that the principles established by American regulatory commissions and by the NARUC were just not applicable to the Bell-Northern situation. The context of affiliation used throughout by Dr. Thatcher referred to the situation prevailing in the United States, where a very large part of the stock of the operating companies of the A. T. & T. was owned by the A. T. & T., and where the A. T. & T., in turn, owned 98% or 99% of the manufacturer, Western Electric. Under this grouping of affiliates, said Counsel, it was clear that any profit made by Western on sales to operating companies found its way back to the A. T. & T. and not to the accounts of the operating companies. A similar situation prevailed in the areas of the United States served by General Telephone. In such a context, words like "transactions between affiliates" had a good deal of meaning and it was in that context that Dr. Thatcher had said that most-favoured-customer price comparisons were not available. To that latter statement, said Counsel, one had to add the fact disclosed on page 7 of the NARUC data filed on behalf of Industrial Wire that Western's sales, other than those to A. T. & T. operating companies and the Government, were only 0.75% of its total sales of \$2,783 million in 1963. Thus, one could draw little or no conclusion from a comparison of Western's prices to operating and non-operating companies.

By contrast, Northern was a wholly-owned subsidiary of Bell and all of its income, from both Bell and non-Bell business, was held to the credit of the Bell Telephone Company, a regulated company, which was the only shareholder. At the same time, some \$40 million of Northern's non-Bell sales consisted of items comparable to those sold to Bell.

As to Dr. Thatcher's third point, with respect to the FCC Uniform Classification of Accounts, Counsel submitted that this would not bear careful scrutiny. In the case cited by Dr. Thatcher, *A. T. & T. v. the FCC*, 299 United States' Supreme Court Reports, at page 232, Mr. Justice Cardozo pointed out at page 246 that the regulation referred to by Dr. Thatcher was no more than the general

accounting principle which should guide every accountant for regulated or non-regulated companies, whether under federal or other jurisdiction. That general accounting principle was that no accountant should permit any charge to expenses that is known to be an unreasonable or unjust amount, and the statement in Section 31-01-2 paragraph C of the FCC Uniform System of Accounts for Class A and Class B Telephone Companies was no more than a statement of that basic accounting principle. In this connection, Counsel cited the case of *Re Amendment of Part 31 of FCC Rules and Regulations*, (1956) 13 Public Utilities Reports, 3rd. Series, at page 163, where he stated it would be seen that the real purpose of the account item was to segregate therein certain items so that the regulatory authority could examine them carefully and determine whether or not they were appropriately included in the expense accounts for ratemaking purposes, or whether they should be charged to the income of the telephone company. The whole concept of that account item was that there would be two classes of income and expense within a telephone operating company: the class of income and expense which was considered by the regulatory body in determining appropriate rates, and the other class of income and expense, the difference between which inures directly to shareholders and which is not taken into account by the regulatory body.

Counsel submitted that the evidence of Dr. Thatcher should be wholly disregarded, not only because his experience and opinions were completely foreign to the Canadian situation, but also because, in Counsel's view, he had apparently prepared his opinion to suit the circumstances in which he found himself. In his original text, (filed as IW&C Exhibit No. 1), Dr. Thatcher had said that there was no reason why any profits on Northern's sales to customers other than Bell Telephone should be applied to reduce the required return from Bell's operations, or that any losses on such non-Bell business should be applied to increase the required return from Bell's operations. That original text, said Counsel, was in line with American practice, under which companies exclude from their income for ratemaking purposes income which can be attributed as coming from unregulated enterprise. Dr. Thatcher, said Counsel, appeared to have realized that, in light of the purpose for which he was giving evidence, that original text might not be too attractive, so he had said that the most satisfactory answer to the question of the justness and reasonableness of Northern's charges was to be obtained from a consideration of its costs and profits, divided between Bell and non-Bell business and classified by principal classes of products. But, said Counsel, one could only conclude that the answers given by Dr. Thatcher under cross-examination were hopelessly contradictory. On being asked whether he meant that Northern's income should be split to follow the American practice of segregating non-regulated income, he had replied that it would only be necessary to examine Northern's cost allocations in the area of sales to Bell, but that did not mean one should separate Northern's income into two categories.

Mr. W. A. Simonton, the accounting witness called by Industrial Wire & Cable, had said that without an examination of Northern's costs and expenses, it was impossible to determine whether Northern's prices to Bell were reasonable. He had then defined reasonable prices as prices which provided Northern with a reasonable profit and not merely prices which were lower than Northern's prices to other customers. Mr. Simonton had made it clear that he had no knowledge of regulated industry and no background for any of the statements made, except that he had read two cases - a California decision and a Wisconsin decision. This, said Counsel, was the whole basis of his knowledge, excepting his skill as an accountant. He had picked up two judgments given in the United States dealing with the concept of a holding company and a manufacturer having no outside business with which a comparison might be made. On the matter of a reasonable profit for Northern, Mr. Simonton had said that the prices paid by Bell to Northern should yield Northern the same percentage return on capital employed in the manufacture and sale of products to Bell as it authorized as the permissive level of return on the capital employed by Bell. Counsel said he had asked Mr. Simonton under cross-examination how he could come to a conclusion that a reasonable profit was a question of fact and not a question of opinion, and he had relied on two concepts: the two American cases he had cited and his view that the risks of a telephone business and the risks of a manufacturing business were the same.

In Counsel's opinion, however, it was abundantly clear from the evidence that had been adduced that the risks of any manufacturing concern were quite different from the risks of The Bell Telephone Company of Canada.

Dr. Thatcher's original text, (IW&C Exhibit No. 1), had read with respect to Northern's rate of return that the price to Bell should include a reasonable return which should ordinarily be at a level commensurate with that earned from other business enterprises with similar risks, but in the witness stand Dr. Thatcher had added that Northern's operation was such that it should be at the same level of return as Bell, thus bringing his evidence in line with that of Mr. Simonton. But, in Counsel's submission, if those statements by Dr. Thatcher and Mr. Simonton were looked at in light of the evidence that Northern was a manufacturing business, then there was no substance to the idea that one could pull a rate of return out of the air and say it should be the same as that for Bell.

Dr. Thatcher's original principle had been to split off the other income of Northern. Under cross-examination, Mr. Simonton had seemed to say that he was in favour of splitting Northern, permitting a specific rate of return on its Bell business, and giving the shareholders a separate, non-regulated income from its non-Bell business, a concept similar to that of Mr. Van Scoyoc, a witness for the Municipalities. If, said Counsel, one were to create a source of income

for Bell shareholders that is not taken into account in fixing the rate of return, then there was much more justification in trying to borrow something from American concepts. But, Counsel submitted, the whole evidence of Dr. Thatcher and Mr. Simonton was completely unrealistic and without foundation, because the Canadian scene was completely different from the American.

Counsel noted that Mr. Simonton had several times suggested that Northern could be, or might be, making excessive profit on its sales to Bell. At the same time, said Counsel, Industrial Wire & Cable with all the resources available to it had been unable to produce a single example of a Northern Electric price which it could assert was excessive. Mr. Simonton had also made certain suggestions about the earnings and retained earnings of Northern. In this connection, Counsel had drawn to Mr. Simonton's attention figures that would indicate that the proportion of Northern's total earnings paid out as dividends to Bell exceeded the proportion of Northern's Bell business to total business. Mr. Simonton had said this was not useful, yet Mr. Van Scoyoc, a witness for the Municipalities, in his Schedule No. 21, had considered a division of Northern's earnings on the basis of the proportions of its Bell and non-Bell sales to be a fair way of making such a division. If Mr. Van Scoyoc's method were applied to Mr. Simonton's study of Northern's payout and retained earnings, it would demonstrate that more earnings were paid out to Bell in dividends than the proportion of earnings derived from sales to Bell on the basis of Mr. Van Scoyoc's division.

With respect to Northern's prices to Bell, the Bell Company's witness had explained that Bell made studies of price-volume ranges and discussed with Northern the practicability of meeting acceptable prices. For new items, the price had to be reasonable in relation to its value to Bell in the service situation, and the witness had reviewed the factors and tests involved in price acceptance. "Reasonable", as used by the witness, meant not only an acceptable price in terms of that initial standard, but also a price that Bell engineers, with their long experience in the design of new equipment and their knowledge of what is available from other suppliers, were prepared to recommend. In Counsel's view, this was a sound basis which did establish reasonable prices. There was also a constant review of such prices, and a constant revision of them as volumes and circumstances changed, which often resulted in price decreases.

In addition to the question of price determination, there were the actual earnings of Northern and the audit to determine whether it is living up to its contract. In Counsel's opinion, all three aspects had to be taken as a whole and he submitted that the Board could and should draw the conclusion that the prices of Northern to Bell were reasonable. Exhibits Nos. B-53 and B-91 both demonstrated that Northern was an efficient operation which was selling to Bell at prices lower than its normal prices and was maintaining its competitive position at those higher prices.

In this connection, Counsel cited the following from the Board's Judgment in the Industrial Wire and Cable Company case, (54 B.T.C. 47, at page 56; Judgment dated January 13, 1964):

"In concluding I make the observation that the activities of Northern beyond the limits of the telephone field, which seem to be objectionable to the Applicant, appear to me to be within the scope of the powers accorded to the company by its Charter. To assert, as did the Applicant, that its objective is to have all of the functions of Northern come within the purview of the Board for the protection of both investors and subscribers overlooks the fact that the Board has on several occasions investigated the prices of goods purchased by Bell from Northern and has been satisfied that the arrangement existing between the two companies has been of benefit to Bell subscribers."

That Judgment, noted Counsel, went on to state that the dividends earned flowed back to Bell. He submitted that nothing had transpired in the present proceedings which would lead the Board to re-evaluate such conclusion and that, in the present case, Bell had again demonstrated the reasonableness of Northern's prices.

Industrial Wire and Cable had suggested that the Board should require Northern's cost allocations to be brought before it, but they had not suggested that cost allocations could be made on an individual basis. Both Dr. Thatcher and Mr. Simonton had referred to the Western Electric data which had been filed as an exhibit and had talked about allocation of costs in broad divisions. It was true, said Counsel, that cost allocations could not be made for individual items, and examination of the Western Electric data showed that it divided Western's cost allocations into a limited number of headings only. Such a division would achieve nothing for the purchasing concepts of Bell, although it might have some value to Industrial Wire. In this connection, Counsel noted that Western had reduced its sales to the general trade to about 0.75% of its total sales, and that a Bell Company witness had pointed out that Northern's problems in cost allocation were wholly different from those of Western. Western had virtually no customers outside of the A. T. & T. operating companies, whereas Northern supplied the same item to two or more customers. That witness had used as an illustration a stamping press pressing out telephone sets and had given as his opinion that cost allocations in such a situation with a number of variables would become highly fictitious. Thus, in Counsel's view, no purpose relevant to the Board would be achieved by acceding to the request of Industrial Wire; more important, disclosures of cost allocations might seriously hamper Northern's ability to compete as a supplier to the general trade. An action that would inhibit the competitive position of Northern in the general trade would, submitted Counsel, be disastrous to Bell subscribers and would have a serious

effect on Northern. These latter considerations did not apply to the situation of Western Electric.

Counsel stated that it was not the wish of the Bell Company to remove from subscribers the benefit of Bell's earnings on any of its investments, nor did it seek by any other means to exclude any income from being taken into account in the determination of subscribers' rates. The total Bell investment in subsidiaries amounted to some \$56.5 million, of which the investment in Northern was some \$34.4 million. This investment in total was only 3% of Bell's total capital and on it Bell received a return of 12% overall. The Northern dividend alone gave Bell a return of 16.5% on its investment. Thus, Northern had not been a burden on Bell's subscribers. Its debt ratio was in line with those of other industrial companies and its earnings ratios had been presented in evidence. Dividends to Bell from Northern had increased from \$3.6 million in 1959 to \$5.7 million in 1964 and during that period its payout ratios had ranged from 44% to 74%, compared with a range of from 54% to 58% for the 65 Industrials. In the light of all this, Counsel submitted that it was clear that the Bell-Northern relationship met all appropriate tests in circumstances in which Bell was Northern's sole owner, Bell's return on its investments was taken into its accounts for the benefit of subscribers, and Bell had no affiliate in the American sense of that term.

Counsel submitted further that there was no evidence on which the Board should at this time reconsider the jurisprudence established by it in the following words of the 1958 rate case, (Judgment dated January 10, 1958, 76 C. R. T. C. 267):

"On the evidence the Board finds that at this time Bell's investment in Northern Electric is not in fact prejudicial to the interests of Bell's telephone customers and, further, that prices paid to Northern Electric by Bell are as low as or lower than going prices.

"This finding is not to be construed as meaning that the Board considers that its jurisdiction is limited to the two specific points mentioned. It is true that the Board has no direct jurisdiction to require Northern Electric to do or refrain from doing any act, e.g., to require it to pay certain dividends. But the Board considers that in discharging its duty to fix just and reasonable rates, it is entitled to take into account all relevant factors. The Applicant's case for a higher level of earnings was based to a considerable extent on the necessity of maintaining investor confidence in Bell's corporate securities; this confidence is bound to be influenced not only by the credit of the telephone business but also by all the assets and financial resources available to Bell, whether or not used in or derived from the telephone business, and including Bell's interest in Northern Electric."

In conclusion, Counsel submitted that, taking all the evidence and circumstances together, the Board had no reason at this stage to make any finding in respect to the Northern-Bell relationship other than the one he had just cited. The subscribers of Bell derived substantial benefit from that relationship and Bell had demonstrated that Northern's prices to it were reasonable and proper in every way.

(8) The Guiding Legal Principles involved in the Determination of a Permissive Level of Earnings:

Counsel noted that, in its brief of November 28, 1964, the Company had submitted that: (a) Its current earnings were not in excess of a just and reasonable level; and (b) The basis on which a just and reasonable level of earnings might be authorized should take into account all relevant criteria. Such criteria would include: (1) The Company's ability over the long term to provide earnings comparable to those available to investors in other companies, risks and uncertainties taken into consideration; (2) The maintenance of the financial integrity and credit of the Company; and (3) The present and future ability to attract the capital necessary to provide the services required in the interests of its subscribers and the national economy.

Counsel said he believed that a summary and analysis of the relevant authorities which might be used as a guide could be helpful. He observed that the Board had stated in the past that American authorities might be referred to on this issue and cited the Board's decision of March 11, 1946 in the case of the *City of Ottawa v. Ottawa Electric Railway*, (59 C. R. T. C. 136, at page 168), in which the Board had relied upon the *Bluefield Waterworks* case. Provincial boards had done likewise; for example, the case of *The King v. Rideout*, (1949), 4 D. L. R. 612, at page 623.

The tests of a reasonable rate of return suggested by the Company, and previously referred to, were: comparable earnings, maintenance of financial integrity and credit, and attraction of capital. These tests had long been accepted by American and Canadian courts.

In 1922, the Supreme Court of the United States, in the case of *Southwestern Bell Telephone Company v. Public Service Commission of Missouri*, (262 U. S. Reports, page 276, at page 291), expressed the following opinion through Brandeis and Holmes, J. J.:

"The compensation which the Constitution guarantees an opportunity to earn is the reasonable cost of conducting the business. Cost includes not only operating expenses, but also capital charges. Capital charges cover the allowance, by way of interest, for the use of the capital, whatever the nature of the security issued therefor; the allowance for risk incurred; and enough more to attract capital."

In the same year, the Supreme Court of the United States expanded on this principle in the case of *Bluefield Waterworks and Improvement Company v. Public Service Commission of the State of West Virginia*, (262 U. S. Reports, page 679, at page 692), as follows:

"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally."

In 1943, the Supreme Court of the United States decided the other leading case of *Federal Power Commission v. Hope Natural Gas Co.*, (320 U. S. Reports, page 591, at page 603), and stated as follows:

"The rate-making process under the Act, i.e., the fixing of just and reasonable rates, involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Co.* case that regulation does not insure that the business shall produce net revenues." 315 U. S. page 590. But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. Cf. *Chicago & Grand Trunk Ry. Co. v. Wellman*, 143 U. S. 339, 345-346. By that standard the return to the equity owners should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital."

These principles were adopted by the Supreme Court of Canada in the case of *Northwestern Utilities v. The City of Edmonton*, (1929 S. C. R. 186, at page 192), in which Judge Lamont stated:

"The duty of the Board was to fix fair and reasonable rates; rates which, under the circumstances, would be fair to the consumer on the one hand,

and which, on the other hand, would secure to the company a fair return for the capital invested. By a fair return is meant that the company will be allowed as large a return on the capital invested in its enterprise (which will be net to the company) as it would receive if it were investing the same amount in other securities possessing an attractiveness, stability and certainty equal to that of the company's enterprise."

In 1960, the Supreme Court of Canada reiterated the same principles in the case of *British Columbia Electric Railway Company Limited v. Public Utilities Commission of British Columbia*, (1960 S. C. R. page 837, at page 853), and quoted with approval its previous decision in *Northwestern Utilities*. At page 853, the Honourable Mr. Justice Martland made an analysis of the four relevant Sections of the Act and concluded:

"These four sections last mentioned involve a statutory obligation on the part of a public utility to make capital outlays for extension of its services. A public utility which operates in a rapidly expanding community may be required to make substantial expenditures of that nature in order to keep pace with increasing demands. It must, if it is to fulfil those obligations, be able to obtain the necessary capital which is required, which it can only do if it is obtaining a fair rate of return upon its rate base."

The Judge then goes on to quote from the *Northwestern Utilities* case.

The Public Utility Boards of the Canadian provinces, said Counsel, had repeatedly accepted similar tests. In 1951, the Public Utility Commission of Prince Edward Island stated, in the matter of the *Petition of the Island Telephone Co. Ltd.*, as follows:

".....being privately owned the capital required for the operation must be supplied by the investing public. And no investor will be interested in placing his money in any project unless it is to him financially attractive. And an investment can only be attractive in so far as it promises security to the principal and a satisfactory return thereon. It is the duty of the Regulatory Body to see that a public utility is permitted to earn such fair return as will insure financial stability as to existing capital and make the enterprise attractive enough so that when additional capital is required willing investors will be found to furnish such capital."

In 1954, in *Re Trade Union Dispute*, the Commission repeated its previous statement and went on to say:

"It is well settled public utility law that public utilities are entitled to such fair return on investment as will attract the minds of the investing public. If the returns be low the utility will be unable to secure capital which is continually being required for expansion and improvement of service facilities. In fact, in the United States according to the Constitution,

rates which do not yield a fair return on investment are deemed to be confiscatory and invalid. If we fail to give due consideration to the necessity of fair return on investment, a utility will fail to attract investment capital and the people of this province will be the ultimate losers in the kind of service made available to them."

The Ontario Energy Board, in the matter of the *Consumers' Gas Company Rate Application*, decided August 15, 1961, stated at page 9:

"Obviously, the Board must use certain tools or yardsticks in arriving at its decision in relation to these concepts. Again, in Ontario and in other jurisdictions in Canada and the United States, the yardstick which has been and is used almost without exception is the rate base — rate of return method, the rate base being the capital employed in the utility operation as referred to above, and the rate of return being the return earned by the utility on that amount. The return to the Applicant should be sufficient to provide revenue for the Applicant to pay for its cost of operation together with a fair return to the owners of the utility and further should be such as to enable the Applicant to attract on a reasonable basis the necessary capital for further extension and the proper maintenance of its services..."

On page 21, the Ontario Energy Board added:

".....the function of the Board is to approve or fix just and reasonable rates and in considering the matter, the Board must determine whether or not the rate of return on the rate base, produced by the proposed rates, is reasonable. The determination of the reasonableness of the rate of return depends on many factors which can only be arrived at by the exercise of informed judgment on all relevant facts, including the earnings of other enterprises whose operations are attended by similar risks and uncertainties, and the return necessary to permit a utility to attract new capital as needed, at a reasonable cost."

In its *Reasons for Decision in the Union Gas Rate Application*, of June 27, 1962, the Ontario Energy Board made the following observation at page 28:

"The return that will constitute just compensation depends upon many factors and can only be arrived at by the exercise of informed judgment. Such factors would include, among other things, the earnings of comparable enterprises; the maintenance of financial integrity; the attraction of capital at reasonable cost, when needed; the proportions of funded debt, preferred shares and common equity in the utility's financial structure; the cost to the utility of obtaining such type of capital; the efficiency of operations; the economic conditions; including fluctuations in the value of both money and plant; the type of rate base valuation employed by the regulatory body."

The Alberta Board of Public Utility Commissioners, on July 26, 1951, in the matter of an *Application by Northwestern Utilities, Limited*, followed similar principles, commencing at page 24:

"It may not be amiss for the Board to repeat what was said in the recent Calgary decision. The rate of return is that percentage of the rate base which the Company is entitled to earn in order to provide returns to investors. In fixing that rate the Board must protect the consumer interest and at the same time deal fairly with the utility and must keep in mind its statutory duty to fix rates on a just and reasonable basis. There are some general principles to be observed and those are set forth in *Edmonton v. Northwestern Utilities Limited*, 1929, S. C. R. 192."

The Board then quoted from the *Northwestern* decision and from the *Bluefield* decision, and concluded as follows:

"Financial integrity and ability to attract capital are basic in the fixing of a rate of return but there are other considerations. Does 'similar securities' mean securities of a public utility and does 'other business undertakings' refer to public utilities or do these phrases refer to securities of commercial competitive business generally? The Board takes the view that the whole field must be surveyed. It would seem too that the efficiency of management, the financial structure and current financial conditions must be considered."

In 1959, the Public Service Board of the Province of Quebec issued its Order No. 6806 in the matter of an *Application by Quebec-Telephone* which contained the following statement:

"D'après les chiffres contenus dans le rapport certifié de l'entreprise l'on obtient comme actif total une somme de \$24,147,621.00, laquelle peut être raisonnablement adoptée comme une base juste et équitable servant au calcul du rendement qui doit être accordé à la requérante pour lui permettre de payer les intérêts sur ces emprunts, verser un dividende à ses actionnaires et contribuer au compte de surplus qu'elle doit maintenir pour assurer sa stabilité financière et son pouvoir d'emprunt sur les marchés mobiliers."

Counsel stated that while the use of these tests would serve as guidelines for the Board, the result could not be achieved with mathematical precision. Such yardsticks would show a zone of reasonableness within which the earnings of the Company might fluctuate without being unreasonable or unfair. During the proceedings, the Company had referred to a zone of reasonableness. Dr. Morton had stated that such a measure could not be one of mathematical precision, because the earnings of capital varied in different times and different industries, whose fortunes moved up and down, but over a period of time a

reasonable estimate could be made. Mr. Groleau had expressed the same view when he had said that the appropriate level of a just and reasonable return could not be determined with mathematical precision, but that a zone of reasonableness could be established, the lower end of which should be at least sufficient to preserve the purchasing power of the shareholders' capital and income.

The Federal Communications Commission of the United States had also accepted the view that there should be a zone of reasonableness, said Counsel, in its Public Notice 60279 of November 25, 1964, which read in part as follows:

"Particular attention was directed to financial aspects of the Company's operations including: the level and trend of interstate earnings, the legal standards for determining a reasonable level of earnings, sources of new funds, the ratio of debt and equity capital, revenue requirements to maintain the Company's credit standing, dividends, and the market performance of the Company's stock. The presentations on these subjects were backed by extensive studies, exhibits and other data.

"There has been a continuing improvement in the economy, which, together with technological advances and operating efficiencies, is producing an upward trend in the Company's earnings. Based upon consideration of all the relevant factors, the Commission believes that this improvement in earnings enables the Company to improve its rate structures and reduce its charges to telephone users. It is not the view of the Commission that the anticipated reduced earnings which are expected to result from these reductions are at the upper limit of the permissible range. The Commission is confident that further growth in the economy, coupled with telephone operating efficiencies, will result in a renewal of the upward trend in the level of earnings, which will better enable the Company to compete successfully in the capital markets and carry forward its construction program at the projected high level. In these circumstances, the Commission requested a study of rate adjustments, the results of which are included in the substantial rate reductions announced today."

This principle of a zone of reasonableness, Counsel continued, had also been accepted by the Supreme Court of the United States in the case of *Montana-Dakota Utility Company v. Northwestern Public Service Commission*, (341 U. S. Reports, page 246, at page 251), in which case Mr. Justice Jackson stated as follows:

"Statutory reasonableness is an abstract quality represented by an area rather than a pinpoint. It allows a substantial spread between what is unreasonable because too low, and what is unreasonable because too high."

In the case of *Denver Union Stockyard Co. v. United States*, (304 U. S. Reports, page 470, at page 483), the Supreme Court of the United States considered the

provision of the Packers and Stockyards Act, authorizing the Secretary of Agriculture, on finding rates of stockyard services to be unjust or unreasonable, to prescribe just and reasonable rates, and declared as follows:

"The Secretary is not required to prescribe rates so low as to be barely sufficient to withstand attack on the ground of confiscation, but is at liberty, within limits that he may find to be just and reasonable, to establish higher rates."

Counsel concluded by stating that the zone of reasonableness, as developed in the earlier United States' Supreme Court cases, was discussed in an article in 53 Harvard Law Review, page 1103, at page 1115, as follows:

"Both the upper limit of reasonableness, as well as the lower, may be determined by a cost (for earnings) standard, as well as by the value of the services, though in determining the upper limit, a more generous standard of permissible net earnings may be applied than in determining the lower limit."

He submitted that the three tests proposed by the Company in its brief of November 28, 1964, (i.e., Comparable Earnings, Maintenance of Financial Integrity and Credit, and Attraction of Capital), were valid tests which would permit the Board to fix a permissive level of earnings, bearing always in mind that such permissive level could not be pinpointed with mathematical precision, but had to be within a zone of reasonableness.

(9) The Use of Earnings-Price Ratios or Dividend-Price Ratios:

Counsel observed that Counsel for the Municipalities, Mr. Carroll, had suggested through his witness Mr. Van Scoyoc that the tests suggested by the Company should be discarded in favour of an earnings-price ratio or a dividend-price ratio formula. While Mr. Van Scoyoc had stated that such a formula was widely accepted by American regulatory authorities, Counsel submitted that a closer analysis of the record would demonstrate that this was not the case. Under cross-examination, Mr. Van Scoyoc had been obliged to admit that the National Association of Railroad and Utilities Commissioners of the United States, commonly known as NARUC, had condemned the earnings-price or dividends-price formula in its 1964 Report of its 76th Annual Convention. Counsel quoted from that Report as follows:

"The chart reflects investors' confidence in utilities and it is rather apparent that stocks are not being purchased on the basis of current earnings since a number of regulated companies whose stock prices have increased the most have been earning well below rates of return authorized. For example the airlines have been earning far less than the 10¼ to 11 per cent on total capital set by the Civil Aeronautics Board, and a number of railroads have earnings at depression levels. This certainly reaffirms statements

previously made by this Committee that stock market prices have little validity as an indicator of proper earnings levels for regulated industry. Regulators generally did not advocate 'regulation by stock market' when stock prices were depressed and correspondingly, we believe, do not advocate it once stock prices are high. The task of regulation is far too important a responsibility to be abdicated to the ephemeral ups and downs in market prices. Rather, this Committee continues to advocate sound, informed Commission judgment. This is the strong foundation upon which regulation has been built and we strongly recommend that it should continue to be so.

"In this connection, prior reports of this Committee have pointed out some of the problems in using earnings-market price ratios in the regulatory context of fair return. More recently there have been some advocates of using the ratios of stock market prices to book value per share as an indication of appropriate earnings levels. Both ratios suffer from the same infirmities; namely, both depend on stock market prices which, as this Committee has noted in prior reports, discount investors' future expectations. Regulatory bodies are not legally charged with regulating stock market prices and, as anyone who has followed the market will agree, it would be rather futile to attempt to do so.

"While there are always some who would advocate attempts to regulate stock market prices, this Committee believes that the regulator's primary concern is with the utilities' fair rate of return for which specific ground rules have been established, not regulation of stock market prices. The appropriate guidelines to regulation of a fair return have been stipulated by the U. S. Supreme Court in the Bluefield and Hope cases. This Committee believes regulation can maintain its course of past progress by continuing to consider all three tests of fair return laid down by the Court, namely, the attraction of capital standard, the maintenance of integrity of investment standard, and the comparable earnings standard." [Note: Quotation commences at page 239 of the Report].

Counsel noted that the three tests referred to in the Report were exactly the same as those proposed by the Company.

Further quotations were made by Counsel from NARUC Annual Convention Reports for the years 1957, 1958, 1959, 1960 and 1962. Pertinent excerpts from these quotations are reproduced below.

"Since the decline in market prices caused concurrent earnings-price ratios to increase some have theorized that perhaps the cost of equity has likewise increased. Your Committee does not subscribe to this line of reasoning.....investors purchase common stock on the basis of

future expectations, not for the current return — particularly in recent years when concurrent returns have been below bond yields.”

.....
“.... the use of these ratios, or any longer term averages..... disregards the growth factor which is necessary to insure the success of repeated stock offerings, and in the absence of which the investors would take their money elsewhere. Certainly, the ratios do not reflect even remotely the fair and reasonable allowance for the equity owner and, in the use of them, we may be failing to test the results against the comparable earnings test set up by the court.”

[1962, 74th Annual Convention. Quotation of Counsel begins at page 169].

“The decline in the current short-term earnings-price and dividend-price ratios, in some instances to levels below current bond yields, highlights once more the need for the careful analysis, use, and interpretation of earnings-price and dividend-price ratios.....It is beyond serious dispute that equity, which is the major portion of the risk of an enterprise, would cost more than relatively safer senior capital.”

.....
“....determination of the cost of equity requires a great deal of analytical skill, experience, and judgment. The mechanistic use, or better — misuse, of earnings-price ratios.....is to be viewed with healthy skepticism.”

[1960, 72nd Annual Convention. Quotation of Counsel begins at page 513].

“Equity costs are less easily determined. The drop in current earnings-price and dividend-price ratios to levels below debt costs and even Government debt costs, highlights even more than in previous years the need for the careful use and interpretation of the ratios in determining equity costs.....It is clear that equity investors are not buying stocks for current yields but rather in anticipation of future increases in earnings, dividends, and prices.”

[1959, 71st Annual Convention. Quotation of Counsel begins at page 91].

“This once again demonstrates that the use of low current earnings-price and current dividend-price ratios are meaningless as a measure of investor expectations, and therefore inadequate as a measure of the cost of common stock equity.”

[1958, 70th Annual Convention, page 61].

“The rapid rise in the cost of debt and of preferred stock capital have brought in sharper focus the inadequacy of earnings-price and dividend-price

ratios as a measure of the cost of common stock equity. In many instances such ratios are lower than the yield on high grade bonds. Certainly it is unreasonable to believe that junior equity capital, bearing the risks of the business, is cheaper than the capital represented by senior obligations.”
[1957, 69th Annual Convention, page 60].

Counsel also referred to quotations from two texts on public utility economics, excerpts from which follow below.

“...it is inconsistent to apply....market values to a rate base reflecting book values. More logically consistent would be a measurement based upon returns on book equity.”

[Garfield and Lovejoy, *Public Utility Economics*, 1964, page 126].

“....current earnings-price ratios of stocks of this character do not represent ‘cost of capital’ in any significant sense of that term.....if the allowed rates of earnings on such stocks were to be permanently limited.....to a rate of return on their book values equal only to their present earnings-price ratios, their market values could be expected to fall well below their book values.”

[Bonbright, *Principles of Public Utility Rates*, 1961, page 253].

Dealing with the evidence of Mr. Van Scoyoc, a witness for the Municipalities, Counsel noted that Mr. Van Scoyoc had contended that earnings-price ratios were a valid method to determine the permissive level of the Company’s earnings. He had argued that, as investors had been willing to make their funds available to the Company over the past twelve years at prices which, when related to earnings, had averaged a 5.3% return, such return should represent the basic cost of equity capital. From this, he had concluded that the cost of equity capital to the Company must be related to that figure of 5.3%, plus some minor judgment modifications, the nature of which was unknown to him, because there were no principles which guided him in the application of these judgment factors.

In this connection, Counsel said that such 5.3% average, which was used as a basis for future adjustments, was lower than the long-term yield on the Company’s bonds. It was universally admitted that junior or equity capital, which bore the risks of the business, should earn more than long-term debt, yet the earnings-price ratio contradicted this basic principle, and the following data in respect of the Company proved this:

<u>Year</u>	<u>Long-Term Bond Yield</u>	<u>Earnings-Price Ratio</u>
1960	5.46%	5.58%
1961	5.36%	4.76%
1962	5.46%	5.07%

<u>Year</u>	<u>Long-Term Bond Yield</u>	<u>Earnings-Price Ratio</u>
1963	5.38%	4.70%
1964	5.47%	4.82%

In Counsel's opinion, current earnings related to current market price had no significance. Dr. Morton, the Company's witness with respect to the fair return on total capital, had very aptly described the investor's attitude towards equity, when he had said that it was not possible to know with precision what it was that the investor was buying or thought he was buying. He had pointed out that the price of stocks was determined by expectations of future earnings and growth, and by many unknown factors, both rational and unexplainable fears and hopes.

If the prices paid for equity were related to future growth in earnings, said Counsel, the results would differ with the length of the projected period. This had prompted Mr. Van Scoyoc to reject the "spot"-price method and to suggest a twelve-year period in order to balance out short-term market fluctuations, but in the preparation of his Schedule 11 he had used a four-year period to compute earnings-price ratios for the Company and twelve other telephone companies. If, said Counsel, Mr. Van Scoyoc had used a twelve-year period as he had originally suggested, his results would have been substantially different; the Company's Exhibit No. B-92, filed during cross-examination of Mr. Van Scoyoc, showing projected earnings-price ratios based on 1963 earnings as a percentage of the 1953 market price, put proper emphasis on this Argument. The fallacy of the earnings-price ratio method of computing a fair and reasonable return had been demonstrated by Mr. Van Scoyoc, when he had related the earnings-price ratios of the Company for the years 1958 and 1964. In 1958, the average price of the Company's stock had been \$41.50 and earnings were fixed at \$2.43 per share, resulting in an earnings price ratio of 5.88%. Since the average market price within the last six months had been about \$60, the Company would now need current earnings of \$3.53 per share to maintain the same ratio of 5.88%.

Counsel compared Mr. Van Scoyoc's Schedules Nos. 9 and 11 and observed that column 7 of Schedule 9 showed an average earnings-price ratio for twelve companies of 5.7% in 1960, whereas Schedule 11 showed an average earnings-price ratio for the same twelve companies for the same year of 4.8%, a difference of 16% between the two averages. The Bell Company's ratio had been shown as 5.3% in Schedule 9, but as 5.1% in Schedule 11. If Mr. Van Scoyoc's costs of equity were to be expressed by that average difference of 16% between the two Schedules, his cost of equity would jump from 7% to 8.12%.

Another major deficiency of the earnings-price ratio approach, said Counsel, was the fact that it bore no relationship whatsoever to the actual earnings of a

company. Comparison of Mr. Van Scoyoc's statistics and those filed during his cross-examination, and earnings-price ratios and returns on total capital, showed that regulatory authorities had recognized the speciousness of the argument and had allowed actual earnings well in excess of the earnings-price ratios developed by Mr. Van Scoyoc. His twelve companies had actually earned a return on total capital during the years 1959 to 1964 that ranged between 7.0% and 7.2% on the average.

In Counsel's opinion, the earnings-price ratio was unworkable from the regulatory point of view, because it led to a procedure that was tied to the stock market. In periods of prosperity and growth, market prices generally rose faster than dividends and earnings, with the immediate result of a declining trend in the earnings-price ratio. If regulation used such ratio as the cost of equity, a reduction would be made in the allowed rate of return because of the reduction in the ratios. This would be a most unrealistic way of regulation, because rates would be reduced in prosperous times and increased in periods of recession.

The shortcomings of the earnings-price ratio method were summarized by Counsel as follows:

- (a) The erroneous assumption that investors are interested only in past or current earnings;
- (b) The method is valid only if book value and market value coincide;
- (c) The method leads to increased rates in recessions and reduced rates in times of growth; and
- (d) The method leads to a false conclusion because only one factor, earnings, is factual and historical, the other factor, price, being established by a number of considerations that are unknown even to the investor.

In conclusion, Counsel said he would like to comment on the actual computation, based on an earnings-price ratio approach. In this connection, he had noted that Mr. Van Scoyoc had suggested three methods of arriving at a permissive level of earnings of 7% on equity capital.

The first method was worked out as follows:

- (a) Average earnings-price ratio for the period 1953-1964 is 5.3%, (Page 3124 of the Transcript of Evidence);
- (b) An adjustment of 3.5% for "market pressure", (Page 3128 of the Transcript);
- (c) A further adjustment of 5% for financing costs, (Page 3128 of the Transcript), the result of which is to make the initial figure of 5.3% a figure of 5.75%;

- (d) Another adjustment of 0.75% as a safety factor, (Page 3129 of the Transcript); and
- (e) An unexplained adjustment, or judgment factor, of 0.50% to bring the final figure to 7.0%.

Counsel noted in connection with this method that the computation was based on an average figure that had to be corrected four times to produce a proper result. He noted further that Mr. Van Scoyoc had frankly admitted, under cross-examination, that there were no guiding principles in the method and it was purely a matter of personal appreciation.

The second method was based on the relationship between the Company's per-share earnings and the issue prices of its shares for the last seven issues, (Page 3125 of the Transcript). This produced an average of 6.7%, which Mr. Van Scoyoc adjusted by a financing cost of 0.26%, (instead of the 5% financing cost used in the first method), to arrive at a figure of 6.96%. For reasons that were not explained in the record, said Counsel, Mr. Van Scoyoc did not employ his judgment factor of 0.75% or his final factor of 0.50%, in this second method.

The third method related 1958 earnings to the then existing book value to derive a ratio of 7.01%, (Page 3400 of the Transcript), but the value of this approach was destroyed by Mr. Van Scoyoc's statement, (Page 3401 of the Transcript), that the return on book value was no indication of the rate of return which would induce the investor to make an investment at the present time or in the future.

(10) The Company's Capital Structure:

Counsel observed that more than one-third of Mr. Van Scoyoc's evidence was a criticism of the Company's debt ratio and a suggestion that a 45% to 55% debt ratio was more appropriate for the Company. The principal reason for advancing this suggestion was that the Company's management should not be so conservative and that it should endeavour to maximize profits without exceeding the limits of safety. Since long-term debt capital was less expensive than equities, and the interest on such debt was deductible for income tax purposes, Mr. Van Scoyoc's view was that long-term debt should be used to the maximum by the Company.

As to the tax aspect of this proposal, Counsel commented that Parliament would not stand idle indefinitely if all companies were to increase their debt ratios substantially, thus depriving public coffers of the expected share of revenues. Eventually, taxes would have to be imposed to replenish dwindling revenues. Mr. Van Scoyoc's approach, however, was not new and it was such a commonplace that Mr. W. G. Leonard, F. C. A., Professor of Commerce and Business Administration at Queen's University, had commented at great length on the problem in his very recent book, *Financial Management in Canadian*

Business, (1965). Counsel quoted from Mr. Leonard's book at page 126 and excerpts from his quotation are set out below:

".....managers of successful enterprises seldom adopt financial policies of this kind. Managers exhibit a healthy concern as to the unpredictability of the future. New employments of funds might not turn out as profitable as anticipated. New borrowing obtained now might fall due at some future date in a financial climate unfavourable for renewing loans of this kind; threats to solvency might develop.....Conservatism in financial management may be subtly reinforced by social disapproval of attempts to maximize profits unduly.

"Another theoretical effect of corporate borrowing may be that of increasing the corporation's ratio of total debt to total equity so as to cause market analysts to downgrade as investments the quality of the corporation's shares. This might cause a decline in market prices of the shares. On the other hand, if judicious use of borrowing increases profitability and if the board of directors uses some of the extra profits to disburse common dividends at increased rates, any resultant depression of market prices is likely to be temporary.....

"One popular theory advocates a policy of always keeping back a 'borrowing reserve' for emergency use in the future. Proponents argue that, in rapidly evolving competitive situations, innovations promising exceptional profitability tend to arise suddenly and unpredictably."

Counsel noted that the proposal of a higher debt ratio had been advanced before the Board on previous occasions. In the Board's Judgment of November 15, 1950, (67 C. R. T. C. 1), the then Assistant Chief Commissioner stated as follows:

"In my opinion, and after careful consideration of the evidence placed before the Board and in part referred to herein, it would be fair and reasonable to accept, as a basis for determining the Company's requirements, the debt ratio presently existing - namely, 40 per cent. This ratio has resulted from the free determination of the Company's management. I have satisfied myself that, based on the estimates provided and other considerations referred to elsewhere, its acceptance for the purpose herein necessary would not be detrimental to the Company's undertaking."

This opinion, said Counsel, was reaffirmed by the Board's decision on the Company's Application of June 25, 1958, (78 C. R. T. C. 1).

In this connection, Counsel cited the case of *The Bell Telephone Company of Canada v. Montreal, Toronto and Ottawa*, (1927), (34 C. R. C. 116), wherein the then Chief Commissioner of the Board had stated as follows:

"So long as present day business organization continues, and public utility corporations are under private ownership, the general business administration of such corporations must, of necessity, be in the hands of their directors... The function of the Board is one of corrective regulation, not of business management."

He also cited the following from the case of *Springfield v. Springfield Gas*, (291 Illinois, page 209, at page 234):

"The Commission is not the financial manager of the corporation, and it is not empowered to substitute its judgment for that of the directors..."

Mr. Van Scoyoc, said Counsel, had apparently admitted the foregoing principle in a reply to a question by the Assistant Chief Commissioner, when he replied that he was not making a specific recommendation to the Board that the Company adjust, or that the Board fix, the Company's rates on the basis of a hypothetical capital structure.

With respect to the Company's capital structure, Counsel said there were two questions that had to be discussed: (a) Was the Company's decision at all times fair and prudent? and (b) Does the situation which had prevailed during the past fifteen years still prevail today, a situation which indicates that any radical change in debt ratio would be imprudent?

In Counsel's view, the decision had been prudent throughout the past period of fifteen years. By fixing a 40% debt ratio, management had used wisely the discretion previous decisions of the Board had declared to be within its proper domain. The selection of an appropriate capital structure must, in the final analysis, depend largely on experience and sound business judgment. The purpose of including debt in a capital structure was to make available wider sources of capital and to provide leverage to common-stock earnings. While many leading companies pursued a policy of debt-free capital, such a policy was not practical for the Bell Company which had a continuing need for large amounts of capital and therefore needed access to all major sources of capital. Moreover, there were times when it would not be prudent to issue equity capital and debt financing might be the only suitable alternative.

Capital structures, said Counsel, should be planned for the long term, recognizing that debt capital had to be redeemed at some future time under market conditions that could not be accurately predicted. Any imagined short-term advantage derived from excessive use of debt had to be weighed against the additional risks and uncertainties the enterprise would be called on to bear. The most important factors in the determination of an appropriate capital structure were: (a) the nature and risk of the business; (b) the need to maintain a margin of borrowing standing; and (c) the necessity of maintaining a high credit

standing. Risks were inherent in every business and they were reflected in the overall earnings of a business. The possible degree of fluctuation in earnings under changing economic conditions was an important consideration in determining the appropriate balance between debt and equity capital.

Counsel said that a comparison of the average debt ratios over the 1960-1964 period for the various groups of regulated industries discussed by Mr. Van Scoyoc showed that they could not be lumped together, as Mr. Van Scoyoc had suggested, but should be grouped in different industrial categories. The risks of gas transmission companies, of electric utilities, of water companies, of gas distributing companies, and of telephone companies, all differed. Mr. Van Scoyoc had admitted that gas transmission companies had the lowest risks and could therefore properly carry a very high debt ratio. In point of fact, the 1959-1963 statistics gave the following results:

Natural Gas Transmission Companies	60.3% debt ratio
Water Companies	55.7% debt ratio
Federal Power Commission Electrics	52.6% debt ratio
Natural Gas Distributing Companies	45.6% debt ratio
Railroads	30.7% debt ratio
Moody's Industrials	15.3% debt ratio

These statistics, said Counsel, confirmed those supplied by Mr. Van Scoyoc in his Schedule 3.

During the period 1959 to 1963, the A. T. & T. operating telephone companies had an average debt ratio of 27.64%. Mr. Van Scoyoc, in suggesting a 45% to 55% debt ratio for the Bell Company, had neglected the A. T. & T. subsidiaries having a total capitalization of \$21.5 billion, and had preferred to rely on statistical averages derived from a group of telephone companies having a total capitalization of \$1.1 billion. Having set aside the most important segment of the telephone industry, Mr. Van Scoyoc had compounded the error by aggregating the information for all of the utilities without assessing the risks inherent in any single group of utilities. If the risks inherent in each individual industry were properly weighed, said Counsel, a debt ratio of 45% to 55% was too high for the Bell Company and one approximating 40% was more appropriate.

The greater risks of the telephone industry, as compared with electric utilities, could be largely explained by the differences in the nature of the services provided by each industry. The telephone business was unique among utilities, in that it supplied "on-premises" equipment to ensure the maintenance of efficient service. Telephone communication was a two-way service and inadequate equipment at any location would inconvenience other customers and adversely affect the value of their services. Thus, said Counsel, because the

telephone customer had no personal investment in his telephone service, it was easier for him to discontinue service should his financial situation require it. This differed from the user of electricity who had a heavy capital investment in appliances in his household. Electric utilities made a significant proportion of their industrial sales on a long-term contract basis and this, coupled with the home users investment in "on-premises" equipment, assured relative immunity to electric utilities in adverse economic circumstances. Such factors, therefore, tended to make telephone revenues less stable than those of the electric utilities and Counsel noted that the greater stability of demand for electric power had been demonstrated in the nineteen-thirties.

The Bell Company, said Counsel, needed to maintain an adequate margin of borrowing power to finance growth to meet the needs of its service area. It had to have a ready access to the bond market and this would only be assured if it had not already relied heavily on debt. Further, it had to maintain its credit standing and this could only be achieved if the debt ratio were kept within a range considered appropriate to the risks of the business. An analysis of corporate bond ratings confirmed that there was a definite relationship between credit rating and the proportion of debt in the capital structure. Sheet 1 of Schedule 8 of Mr. Van Scoyoc's exhibits, in Counsel's opinion, brought out the full accuracy of this statement. General Telephone and Electronics, with a 46.3% debt ratio, and Rochester Telephone Corporation, with a 48% debt ratio, both carried a Standard & Poor's BBB rating on their bonds.

Counsel noted that the definition of a BBB rating, according to Standard & Poor's, was as follows. BBB or medium grade category is borderline between definitely sound obligations and those where the speculative element begins to predominate. These bonds have adequate asset coverage, and normally are protected by satisfactory earnings. Their susceptibility to changing conditions, particularly to depressions, necessitates constant watching. Marketwise, bonds are more responsive to business and trade conditions than to interest rates. This group is the lowest which qualifies for commercial bank investment.

Counsel argued that no one could suggest that the largest Canadian telephone company should join the ranks of those having a BBB rating for their bonds, thus jeopardizing the whole communications service in Canada, because failure to raise debt capital at reasonable cost could, in fact, curtail expansion of the telephone industry in Canada. A high credit standing was particularly important for the Bell Company, which had to raise large amounts of capital on a continuous basis. Good credit standing meant it would be able, not only to raise capital at all times, but also to raise it at reasonable cost. Bond costs varied with credit standing and, in addition, the cost differentials between the various

grades of bonds fluctuated with changes in economic conditions. As business activity declined, investors became cautious and more demanding and the cost differential between various grades widened. Such cost differentials had an important implication for the Company, which had to sell bonds not only to finance expansion but also to refund existing issues as they matured. The Company's evidence in its Exhibit No. B-27 was that the construction programme over the next five years would amount to \$1.25 billion, \$500 million of which would have to be raised from investors; a substantial amount of this latter figure would be in the form of debt. Over the next 25 years, the Company would have to refund its entire outstanding debt of \$735 million and this alone would require bond financings in 18 of the next 25 years.

A further proposition in connection with the debt ratio, said Counsel, was that the business risks of the nineteen-fifties, which had been factors in the formulation of a 40% debt ratio, had been progressively increasing. The Company's revenues were now more volatile than they were, more than one-third being now derived from long-distance service, and an increasing proportion of revenues being derived from discretionary services. Any downward trend in business conditions would, therefore, have a more adverse effect on revenues than in the past. Increased rigidity in the Company's expense also brought into focus the increased risks in the business. The risk of rapid obsolescence was increasing as a result of recent advances in electronics. Finally, the downward trend of debt interest coverage also had to be borne in mind. While the embedded cost of Bell debt had increased since the end of 1959 from 3.98% to 4.81%, the times bond interest coverage gradually decreased from slightly more than 4 times in 1959 to 3.393 times in 1964. Such a deterioration, said Counsel, could not be allowed to continue indefinitely without creating a serious hazard to future financing.

In conclusion, Counsel submitted that, in view of the foregoing factors, a 40% debt ratio could in some quarters be considered high under 1965 conditions. Therefore, any change at this time would be unwarranted and there was no reason for the Board to interfere with the judgment of the directors and management of the Company which had been reached after careful consideration of all relevant factors.

(11) In re the Board's Responsibilities in Determining a Permissive Level of Earnings for the Company:

During the course of Dr. Clarence Barber's testimony with respect to the General Economic Review and Forecast, the question was raised as to the extent of the Board's responsibilities in determining a permissive level of earnings for the Company. This arose out of the following statement by Dr. Barber in his evidence-in-chief:

"... this suggests the need for a forward looking assessment of the Company's financial position on the part of regulatory authorities. For it is not just the profit position of a single firm that is at stake. It is a significant element in the growth and the efficiency of the Canadian economy as a whole that is under consideration."

Dr. Barber had later amplified this statement, as follows:

"I wonder if I might say a word about what I meant by forward looking?

"I think it would be my view that there are far too many decisions made in our economy which look only at the current picture, and that fail to appreciate really how rapidly our economy grows from year to year, and how much it will grow even between now and 1970.

"What I meant by a forward looking assessment was an assessment that considers the position that the company is going to be in, and all the factors in the circumstances of a rapidly growing economy. This is the context within which the company will be operating, and for which it will have to raise capital and so on.

"This is really what I implied, that adequate attention be paid to the rapid growth which seems to be in prospect for the Canadian economy."

The Board's question was whether it should, in deliberating upon its decisions in these proceedings, consider itself under any responsibility to give decisions that would be beneficial to the economy of the country, or whether its consideration was limited to the welfare of the Company and the Company's subscribers.

Counsel said the issue that was raised was one which had given great concern to many people in the past. It had long been established that the Board was a creature of statute and that its powers must be found within the four corners of the applicable statute; no Court had given more frequent expression to the limitations on the powers of the Board than had the Board itself. The question of the limitation upon the Board's powers had arisen primarily in respect of the Railway Act, particularly sections 32 and following, section 391, and some others. In the case of the interpretation of sections of the Act such as these, the question for discussion had related to the powers of the Board to enquire into the given orders in respect of the matters there enumerated.

In respect of the considerations to be borne in mind by the Board in fixing just and reasonable rates, however, it was Counsel's submission that it had long since been settled by the Supreme Court of Canada that the limitations upon the Board's powers in other respects did not apply here. The Board, said Counsel, was not limited in any manner in the matters which it might consider in fixing a general level of just and reasonable rates, although in respect of individual rates the Board had itself expressed the limitations placed upon it.

Such was the finding of the Supreme Court of Canada in the case of *Alberta v. C.P.R. and C.N.R.*, (38 C.R.C. 27, at page 37), in which Mr. Justice Rinfret, speaking for the Court, had said:

“The enactment of 1925 (Section 328(5) of the Rly. Act) begins by conferring on the Board powers of the most sweeping character to fix, determine and enforce just and reasonable rates...”

Mr. Justice Rinfret had then gone on to mention certain items which there could clearly be taken into consideration.

As to a consideration of the welfare of subscribers of the Company and the Company, Counsel suggested that the initial problem would be to determine the meaning of the word “subscribers” and that it was difficult to distinguish the interests of an industry supplying communications needs for a major part of the country from the interests of the country on a long-term basis. In this connection, Counsel referred to the situation existing in the early nineteen-fifties when thousands were clamouring for telephone service which could not reasonably be made available to them. Many of these thousands were in areas not previously served by the Company; obviously, they could not then be considered as subscribers.

In order to serve the long-term needs of the public, the capital demands of the Company’s construction programme had placed a tremendous strain on its resources. It was clear, said Counsel, that the profits available for the then shareholders and, perhaps, the rates required of the then subscribers, would have been much more favourable if the general requirements of the public had not been kept in mind — the people who were not yet subscribers, and the economy of the country. Yet, Counsel doubted that anyone would suggest that the narrow interests of the then subscribers and shareholders of the Company should have been allowed to be the sole consideration in the policy decisions of the Company’s management and in the decisions of the Board.

If, said Counsel, the narrow interests of present subscribers and shareholders were the sole considerations, the short-term answer might well be to curtail drastically the construction programme, finance requirements entirely by borrowing, and generally so manage the Company as to ignore future responsibilities and provide for the present the cheapest possible service at the greatest profit to the shareholders. No one suggested this would be appropriate and yet, in rejecting such a method, it must be realized that the responsibilities attaching to management and the Board went beyond the narrow interests of present-day subscribers and shareholders. There was a responsibility to the public in general on the part of every individual or corporate citizen and that responsibility was not changed because a company was subject to regulation.

The Board, Counsel continued, was well aware of the studies of the Economic Council of Canada and like bodies, concerning the steps that must be taken to achieve a thriving economy in Canada. In his opinion, the importance of the part to be played by such an important element as the Bell Company could not be ignored. It was no longer solely a question of the profit position of the Company, but of the forward-looking steps management had to take and disclose to the Board if it were not to fail in its duties to the nation.

Obviously, said Counsel, the Board's functions did not include those relating to economic planning. It was equally true that the Board in exercising its jurisdiction to fix just and reasonable rates had to consider all the effects of its decision and among such effects some of the most notable might relate to the national interest.

In Counsel's submission, the unanimous expression of the views of the Board in the case of *Re Bell Telephone Co. Increase in Rates*, (78 C.R.T.C. 1, at page 8), aptly expressed the rule to guide the Board, as follows:

"While it has often been stated that this Board does not have economic planning functions, the Board in discharging its duty to fix just and reasonable rates for any company coming under its jurisdiction must, of necessity, consider the overall result of granting or denying any company's request for financial relief. It is therefore considered appropriate to record certain facts stated in evidence by Mr. T. W. Eadie, President and Chairman of the Board of Bell, to indicate the scope of the Company's operations and the importance of preserving its ability to finance its capital expansion programme. The portion of Mr. Eadie's evidence which gave a general description of the Company's operations was not disputed at the hearing."

The Judgment then went on to quote what Mr. Eadie said and Counsel thought it was important to read this in relation to the like statements made by Dr. Barber and others. His quotation was as follows:

"Mr. Eadie stated that, over the years, Bell has made a significant contribution to the growth of the Canadian economy, that it is an integral part of the national defence system, both civil and military, and its importance in the daily life of the people it serves is generally accepted. He pointed out that the telephones in service had increased from 2,000,000 in 1952 to more than 3,000,000 now and that this number is increasing at a rate approaching 200,000 per year; further, almost 20,000,000 local calls and 355,000 long distance calls are handled daily.

"The Company employs about 41,000 people, with an annual payroll of \$157,000,000: it pays out to others, for materials, supplies and services, upwards of \$200,000,000 yearly.

"The Company has 157,000 shareholders and, by this measure, is the twelfth largest corporation in North America. Of these shareholders, 98% live in Canada and hold 92% of the outstanding stock. The Company issued more than one fifth of all the common stock issues in Canada since 1945 and this stock was almost entirely subscribed for by residents of Canada. There are nearly \$400,000,000 of the Company's bonds outstanding and the holders of most of these bonds are institutions which are entrusted with the savings of thousands of individuals.

"In the post-war period, the Company's construction expenditures have totalled well over \$1,000,000,000 and, in the four years 1955 to 1958, these outlays will amount to \$625,000,000, a sum almost equal to the estimated cost of the entire Canadian share of the St. Lawrence Seaway. Construction expenditures totalling over \$370,000,000 for the two years 1958-59 require that Bell obtain from investors approximately \$240,000,000, of which \$50,000,000 was received from a bond issue in the United States in the first part of 1958. This leaves over \$180,000,000 to be raised between now and the end of 1959.

"Mr. Eadie's introductory evidence concludes with the following comment:

"These things have been accomplished without any general increase in telephone rates since March 1952. Surely, by holding the line against rate increases for six years, the Company has made an important contribution towards price stabilization.'"

The words of Mr. Eadie in 1958, said Counsel, were the same as those of Dr. Barber when he mentioned the importance of national defence and the importance of the Canadian economy. Dr. Barber did not speak alone; the responsible voices among economic experts and government representatives in Canada all spoke of the necessity of forward-planning for prosperity if Canada was to achieve and maintain its proper standard of living. No one disputed that advanced methods of communications were an essential ingredient in the development of any modern economy.

Counsel concluded by submitting that the overall result of a decision of the Board required consideration of the steps necessary to have the Company play its full part in the development of the national economy, a part which was necessarily essential to the fulfilment of the Company's duties to its subscribers, both present and future, and to its shareholders.

(12) *The Permissive Level of the Company's Earnings:*

Counsel observed that the telephone industry had an almost insatiable appetite for capital funds. Since 1959, the Company had spent about \$1.3 billion on its construction programme and such expenditures for the five-year period

ending with 1959 would total some \$1.25 billion. The construction programme was necessary to meet the tremendous growth in demand for service and this, in turn, required continuously heavy demands on both the equity and long-term bond markets. Between 1959 and 1964, the Company had issued \$375 million in bonds, a figure which represented 7.9% of all corporate issues during this period. In addition, it had issued \$409 million in equity, or 22.7% of all Canadian corporate equity financing. The magnitude and constant repetition of this financing task, said Counsel, made it imperative that the Company's securities be as attractive to investors as the securities of other companies.

Investment decisions were now being made by increasingly knowledgeable investors. The four groups of institutional investors, (pension funds, investment companies, insurance companies, and miscellaneous institutions), had increased the market value of their common stock holdings in the last ten years by 380%, from \$750 million to \$3.6 billion. Between 1958 and 1963, the number of shareholders in Canadian investment companies had increased from 171,000 to 316,000, a large part of this growth being attributable to individuals of modest means who contributed via regular payments rather than a lump sum. The growing role of the professional investor was also reflected in the changing composition of the Company's shareholders. In 1958, about 28% of the Company's stock was held by institutional investors, but by the end of 1964, their holdings had grown to 35%. These knowledgeable investors, said Counsel, would have diversified opportunities to invest their funds in securities which would achieve their three main objectives: long-term capital appreciation, protection of the value of their investment and a reasonable rate of return consistent with the first two objectives. Such objectives would be achieved only if the Company's earnings could stand comparison with those of other companies, risks and uncertainties being properly weighed.

The economic atmosphere in which the Company would have to compete for capital funds should also be considered. Counsel noted that Dr. Barber had made a thorough analysis of the pattern of Canada's growth in the post-war period and had projected this growth over the next five years with the help of the reports of the Economic Council of Canada and the Hall Commission. The tremendous growth experienced by the Canadian economy over the past fifteen years had been principally due to the high level of capital expenditures by both private business and government. Capital investment in Canada, expressed as a percentage of Gross National Product, exceeded by a large margin the levels prevailing in the United States, but if Canada were to be able to meet successfully the challenge of providing jobs for a labour force which was growing more rapidly than the labour force in the United States or Western Europe, a number of essential conditions would have to be met. These essential conditions, which had been outlined by Dr. Barber, were: (a) the maintenance of a high level of capital in-

vestment; (b) adequate provision for training and education; and (c) increased mobility of labour. The first annual review of the Economic Council of Canada had also listed the essential conditions for attaining the goals set for 1970 as: (a) increased investment in human resources; (b) improved mobility of resources; (c) greater specialization and better organization of production; (d) swifter and more effective technological advances; (e) enlarged investment in fixed capital, and (f) more initiative and enterprise in using economic resources more productively. In this connection, Dr. Barber had stated that it was clear there would be very strong competition for funds in the capital market and that a significant part of the total amount required would have to be sought abroad.

Counsel observed that already there were signs of increased competition for capital funds. This, he said, was the highly competitive atmosphere in which the Company would have to raise, year after year, the hundreds of millions of dollars necessary to provide additional service. Good communications were essential to the swift and efficient operation of business and the Company would not be able to play its role in the development of the country if its construction programme were to be curtailed through lack of funds. It would, however, be able to attract the necessary capital if it were in sound financial health, and if its level of earnings were comparable to those of other industries having similar risks. The Company's witness, Dr. Morton, had stated the basic principles underlying this theory, which was generally accepted by regulatory authorities, by the Supreme Court of Canada, and by the Supreme Court of the United States, when he had said that a fair return was a competitive return which would permit the attraction of capital required to finance the enterprise. Dr. Morton had stated further that such competitive return could be designated as the opportunity cost of capital, or what the capital could earn in competitive enterprises of corresponding risk; it was also called the comparative earnings test of a fair return, a concept that was bound up with legal tests of a fair return in the United States.

Counsel stated that, in order to give the Board the essential elements which would permit the assessment of the comparative level of earnings of other industries, the Company had adduced considerable evidence. Exhibit No. B-45, prepared by Dr. Morton, compared the relative financial performance of the Company's common stock with that of Canadian industrial companies, and with that of United States' industrials and utilities, over the period 1947-1963. Pages 1 to 4 inclusive of that exhibit compared growth rates and indicated that the Company's common stock had lagged considerably behind that of alternative investment opportunities, as follows:

<u>Page</u>	<u>Growth in</u>	<u>Bell Company</u>	<u>Range for Other Companies or Groups of Companies*</u>
1	Book Equity per Share	14%	47% to 209%
2	Market Price per Share	23%	133% to 394%
3	Earnings per share	17%	45% to 167%
4	Dividends per Share	10%	20% to 200%

* - *Canadian Business Service 100 Stocks* is for 1949-1963 period only.

Pages 5 to 8 inclusive of Exhibit No. B-45 dealt with the rates earned on common stock equity. Over the period 1947-1964, the Company had had an average rate of 6.78% on equity. In this connection, Counsel noted that the rate earned by the Company on its common stock equity was at a more reasonable level in the years immediately following the 1952 decision of the Board, thereby confirming expert views that there had been a regulatory lag which explained the low rate of earnings in certain post-war years. As an example, the rate earned on the Company's common stock equity was 7.81% in 1952, 8.21% in 1953 and 7.48% in 1954; thereafter, it gradually decreased to the 1958 low of 6.21% and then began an upward climb after that year. Page 5 of Exhibit No. B-45 compared the Company's average rate with the 1947-1963 average for A. T. & T. of 8.58%, for the Federal Power Commission A & B Electrics of 10.47%**, for Moody's 125 Industrials of 13.64%, for Dow-Jones 30 Industrials of 11.57%, and for Standard & Poor's 425 Industrials of 12.66%; it also compared the Company's average rate with the 1949-1963 average for Canadian Business Service 100 Stocks of 11.5% and for the Montreal Stock Exchange 65 Industrials of 12.65%.

Counsel said it was interesting to compare the foregoing results with the rate on total capital earned by the telephone companies listed by Mr. Van Scoyoc in his evidence. This had been done in the Company's Exhibit No. B-95, which showed that the return on total capital of these twelve telephone companies averaged between 7.0% and 7.2%.

Mr. Groleau, Counsel continued, had also submitted comparative charts indicating that not only had the Company failed to match the performance of other companies, but also that the integrity of the investment was not protected. Exhibit No. B-63 compared the rate earned on the Company's equity with that earned by 65 Industrials during the period 1949-1958, Bell's average being 6.6% and that of the Industrials being 14%. Exhibit No. B-65 compared the Company's performance in the period 1946-1963 with that of 66 manufacturing companies, divided into three groups: (a) those failing to maintain investment value in relation to the Consumers' Price Index; (b) those with satisfactory growth values; and (c) those showing extraordinary growth in investment value. These groups had the following average rates of earnings on common equity: (a) 8.0%; (b) 11.7%; and (c) 14.2%; Bell's average rate was 6.8%. The 33 companies exhibiting satis-

** - Counsel for Municipalities said this figure should be 10.74%.

factory growth values and having an average rate of 11.7% were subdivided into two groups in Exhibit No. B-66: (a) 16 companies with the lowest earnings which had an average of 8.4%; and (b) 17 companies with the highest earnings which had an average of 14.8%. Exhibit No. B-67 compared Bell's average rate on common equity during the period 1949-1963 with four other groups of investment alternatives and showed that Bell was once more the laggard. These statistics, said Counsel, particularly those in Exhibit No. B-66, disclosed that the minimum the Company should earn on common equity was 8.4%, which was the rate earned by the 16 manufacturing companies showing satisfactory growth in investment value in relation to the Consumers' Price Index. If the Company were unable to match this earnings performance, it would not be able to preserve the integrity of the capital invested in the Company and would lack one of the essential elements necessary to determine a fair and reasonable level of earnings, namely, protection of the investor's capital.

Counsel noted that an objection had been raised with respect to the submission that the Company be permitted to earn about 8.5% on its common equity, on the grounds that it would transform the Company's stock from an income stock to a growth stock. Mr. Acheson, dealing with investor appraisal of the Company, had indicated that investors were interested in stocks with moderate growth and Dr. Morton had stated that, without prospects of growth, it seemed unlikely that investors would continue to buy the Company's common equity at a yield equal to, or less than, that which they could obtain from other Canadian industrials with growth prospects. Mr. Van Scoyoc had stated the Bell stock was an income stock and, under cross-examination, he had examined the companies listed by Standard & Poor as income stocks and had found them to be accurate. Standard & Poor's list disclosed that these income stocks had averaged, during the period 1950-1963, 11% on common equity; during the same period, Bell's earnings had been 7% on common equity.

If, over the post-war period, the Company's earnings performance had been below that of other, alternative investments, how did it manage to raise the capital funds it required? Counsel said the answer to this question had been given by Mr. Groleau and Mr. Acheson. Two distinct periods were involved in a consideration of this question: (a) the years up to 1958; and (b) the period from 1959 to date. In the first period, four factors helped the Company to raise money: (1) The Company's past dividend performance; (2) The prospects for extraordinary growth in the telephone business; (3) Rights' offerings; and (4) Strong market conditions. The Company's long record of uninterrupted dividend payments had impressed investors; growth prospects had inspired confidence in safety and steady income; rights' offerings had provided a measure of growth and a partial hedge against inflation; and favourable economic conditions in the early nineteen-fifties, accompanied by rapid inflation, had created strong market conditions for equities. In the second period, from 1959 to date, two factors made

the Company's financing possible: (1) Diminished competition in the capital markets as the result of a decline in total financing by Canadian corporations; and (2) The improvement in the Company's earnings on equity, from 6.2% in 1958 to 7.4% in 1964. These improved earnings had made possible an increased dividend in 1959 which strengthened the competitive position of the stock.

Counsel questioned whether such factors would be present in the years to come. The formerly impressive dividend performance had lost much of its appeal because many other stocks now had a history of uninterrupted dividend payments for 25 years or more and the Company's increase in dividends had been only 10% compared with much greater increases for other companies. The prospects for growth were no longer as impressive; pent-up demand had now been satisfied and the construction programme no longer showed the tremendous yearly increases of the post-war period. Rights' offerings had lost, and would gradually lose more of, their attractiveness, because new stock issues would represent a steadily-declining proportion of the capital base. The reduced competition for capital funds since 1959 to date would not be present in future years; both the report of the Economic Council and the evidence of Dr. Barber emphasized this point. If, said Counsel, the factors which obtained in the past no longer existed, and if competition for capital funds was becoming increasingly acute, it was of the utmost importance that the Company be in a position to match the earnings performance of its competitors on the capital market in order to attract the funds necessary to give the kind of service being demanded of it.

Both the Company and the Canadian Federation of Mayors and Municipalities had presented evidence in support of a return on capital. Disagreement existed only with respect to the appropriate percentage which would represent a just and reasonable level of earnings. The Federation had urged the Board to fix this percentage at 7% on common equity, whereas the Company had demonstrated that 7% on equity would be totally inadequate and that 8.5% would be a more realistic figure.

Counsel submitted that, in the prevailing economic conditions of the nineteen-fifties, earnings sufficient to pay the historical dividend, plus an additional amount for retained earnings, were probably sufficient to meet investors' expectations as they then expressed them. The climate had now changed and this had prompted the Company to suggest that the method of computing the level of earnings should be modified. Under the method used by the Board until now, the authorized per-share earnings in dollars were not related to the book value of the shares, and the investor was not given the opportunity to earn on the increased book value of the shares. As Dr. Morton had put it, a fixed number of dollars per share would, if rigidly enforced, make no allowance for increased earnings per share as Company performance improved, or as shareholder contributions increased the book equity per share; since the efficient use of resources required that each increment of capital should earn its own way, any addition to

the equity capital account should be accompanied by the right to earn a fair return on this additional capital increment. Thus, said Counsel, once a fair percentage return on common equity was determined by the Board, the return to the investor would fluctuate with the increase or decrease of his investment in the Company. This would also provide an incentive to management to operate outside of the "cost-plus" method; it would be a goad towards more efficiency in operations. Progress, Dr. Morton had said, was not made by reducing the return to capital, but by reducing the cost of production.

The zone of reasonableness of the rate of return on the Company's equity, said Counsel, began at 8.5%, but the Company was so far away at the present time from this minimum requirement that the Board did not need to determine the ceiling or maximum limit on this zone. The suggested return on equity of 8.5% was a composite of the widest possible variety of alternative investments, whether regulated or unregulated. The most prosperous companies had not been used to determine the minimum requirements and the broad sampling of companies which had been used offered all the necessary elements to arrive at a well-reasoned conclusion. Once the capital structure of the Company was determined, and once the embedded cost of long-term debt was ascertained, the return on total capital was a mere mathematical computation.

In conclusion, Counsel submitted that the Company had adduced evidence describing the changes in investor attitudes since 1958 and the economic prospects for the future; and that it had demonstrated that its current earnings were not in excess of a just and reasonable level. The Company had further suggested that the permissive level of earnings should be expressed as a percentage of total capital or of equity capital, a departure from the method previously followed by the Board and one which was predicated on the changes in economic conditions which had occurred since 1958. This new approach had not been challenged by Counsel for the Municipalities and the only dispute was as to the percentage return to be used. Mr. Van Scoyoc had suggested 7% on equity, but Mr. Groleau and Dr. Morton had established that a return of 8.5% on equity, or 7% on total capital, was at the low end of a reasonable range, and in doing so they had used the commonly-accepted tests of capital attraction, comparable earnings, and maintenance of financial integrity. Without such earnings, the Company would have difficulty in attracting, on reasonable terms, the needed capital to expand its service, because of the highly-competitive climate and the greater sophistication of investors.

Regulated industries, said Counsel, were part and parcel of the total industrial complex. The Company was not in a niche by itself, cut off from all other business activities; it competed for labour, material, management, the consumer dollar, and capital funds. It even competed with other communications media offering similar services or alternative means of communication; its so-called

natural monopolistic position was challenged by strong and aggressive opponents and the preferred position of the past was being gradually reduced in size. Being in daily competition with others, the Company must be afforded the opportunity to earn at a level comparable to that of the industries with which it competes. If the Company were not afforded this opportunity, its financial strength would dwindle and the ordinary subscriber would probably be the first to be affected by such a decline.

(13) The Form of the Board's Findings:

Counsel stated that the Company had been instructed by the Board to file with the Board a statement of the reasons which it intended to submit to the Board in support of the permissive level of earnings which it might claim to be just and reasonable in the circumstances, and the basis upon which such level of earnings should be authorized. Pursuant to those instructions, the Company had filed a submission on November 28, 1964, in which, after relating the changes that had occurred in the economy and the Company since 1958, it proceeded to deal with the two matters the Board had instructed it to deal with. It did so in paragraph (15) and following, as follows:

“(15) Since 1958 the assets of the Company have increased from \$1,492,000,000 to \$2,500,000,000 and the Company's requirements for capital have necessitated the issue of \$375,000,000 in bonds and \$405,000,000 in common stock. It is estimated that the Company's requirements for capital expenditures in the next five years will be \$1,250,000,000 and there will be repeated demands on the capital market for subscription to new issues of the Company's bonds and shares.

“(16) The decade coming to a close in 1964 has seen marked changes in the requirements of investors in the Company's securities caused by developments in the national economy and by factors peculiar to the Company. In the dynamic economy of the country and the rapidly evolving capital markets these changes do not appear to be about to cease.

“(17) The interest rate demanded by investors on issues of bonds from time to time has steadily increased. The reducing percentage of rights available to shareholders of the Company on issues of shares and the returns available to investors in shares of other companies, both by way of dividends and capital appreciation, are factors which affect the attractiveness of the Company's share issues.

“(18) The size and frequency of the Company's demands on the capital markets has an effect on prospective investors many of whom seek diversification of their holdings. Issues of shares of other companies have become more frequent than in the past and prospective issues of shares promise to become still more frequent.

“(19) The necessity of providing returns to its existing and prospective shareholders that would, to an extent at least, reduce the unfavourable comparison between them and the earnings, then and prospectively, available to holders of shares in other companies, impelled the Company in 1959 to increase its annual dividend per share from \$2.00 to \$2.20.

“(20) It has become increasingly apparent that a dynamic national economy and constantly changing capital markets make former standards of appraising the demands of investors, from time to time, no longer applicable and that, with its repeated demands for new capital, the Company must be in a position to meet the changing circumstances and conditions. The failure of prospective investors to invest in sufficient numbers in an offering of securities by the Company would seriously damage the Company’s financial reputation and its ability to continue to provide the services required by its subscribers.

“(21) The Company has endeavoured to provide a more attractive present and prospective earnings picture within the existing basic rate structure in order to meet these changing conditions, and will continue to do, by constant efforts to increase its efficiency and reduce its expenses and to promote increased revenues, particularly in fields other than those of the basic services it provides to subscribers.

“(22) The application of any acceptable test of reasonable return to shareholders and of the requirements of prospective shareholders demonstrates that the Company’s present level of earnings is not in excess of a just and reasonable level. Indeed, such tests indicate that the Company must strain its ingenuity and resources to better its earnings position if it is to continue to meet the demands of its subscribers.”

The conclusion of the Company’s submission was as follows :

“The Company therefore submits that –

- (a) its current earnings are not in excess of a just and reasonable level;
- (b) the basis on which a just and reasonable level of earnings may be authorized should take into account all relevant criteria. Such criteria would include –
 - (i) the Company’s ability over the long term to provide earnings which will be comparable to those available to investors in other companies, risks and uncertainties taken into consideration,
 - (ii) the maintenance of the financial integrity and credit of the Company, and
 - (iii) its present and future ability to attract the capital necessary to provide the services required in the interests of its subscribers and of the national economy;

- (c) the application of the various criteria for the determination of a just and reasonable level of earnings does not permit of precise mathematical calculations in respect of such earnings for extended periods of time, when considered in the light of the rapidly changing economic climate of Canada and, more particularly, of the capital markets. Under foreseeable circumstances, a return of approximately 7 per cent upon the total capital invested in the Company would be just and reasonable."

Counsel submitted it was evident that, the hearing having been undertaken, there must at least be a finding by the Board in respect of the Company's submission that its current earnings were not in excess of a just and reasonable level. Respondents had endeavoured to force the Company's witnesses to fix a precise period during which they would be of the opinion that the Company's aim of a 7% return on total capital could be achieved. In so doing, they had overlooked the Company's submission that precise mathematical calculations were not possible and that the return of approximately 7% was looked forward to under foreseeable circumstances.

Counsel observed that Professor Bonbright, who had appeared before the Board as a witness some years ago, took a position on the question of earnings that was interesting. It appeared in his recent book, *Principles of Public Utility Rates*, (1961), in which he stated as follows, commencing at the bottom of page 259:

"So far as concerns the more or less regular ebbs and flows of business activity associated with an ordinary business cycle, the generally accepted principle of rate-of-return determination is fairly clear, although the practice gives rise to difficulties. With rare exceptions, public utility tariffs are not raised and lowered year by year with the object of maintaining a constant or stable rate of return on capital investment. Instead, they are set for the indefinite future, subject to revision possibly in a year or less but more probably only after a period of several years. When a rate case arises, a Commission may set rates designed to yield a 'fair rate of return' on the average for the next several years and not necessarily for the next twelve-month period. Minor variations above and below this figure, unless they are expected to persist or to grow wider with the passage of time, will be allowed to reverse themselves in later years."

The Board, said Counsel, had had occasion to enunciate the same principle in somewhat different terms in its decision of October 24, 1952, in the matter of an application by the Railway Association of Canada, Canadian Pacific Railway Company, and Canadian National Railways, (69 C.R.T.C. 248, at page 255), as follows:

"In previous rate cases the Board had always sought to make awards which had in view not only the requirements of the railways at the time of the application, but which would obtain at least until circumstances were so altered that the maintenance of existing rates would be plainly inequitable. The necessity for determining rates which will prevail for at least a reasonable period in the future has been fully recognized."

In that case, said Counsel, the Board was dealing with a situation where the earnings were below the permissive level fixed by the Board, and sufficiently below to warrant a change in the rate structure, but the same would be true of earnings above the permissive level, but not sufficiently above to warrant such a change in rate structure.

Counsel noted that concern had been expressed about the possibility that a determination by the Board of a just and reasonable level of earnings for the Company might be binding on the Board in subsequent proceedings. In this connection, the finding of the Supreme Court of Canada in the case of *British Columbia Electric Railway Company Limited v. Public Utilities Commission of British Columbia*, (1960 S.C.R. 837), had been referred to. Counsel said the expressions of concern had not come as a surprise to him, but he believed there was a fundamental difference between the present proceedings before the Board and the question under study in the Supreme Court of Canada case. In that case, the question the Court had to deal with was a finding by the Commission which was interpreted by Mr. Justice Locke, (at page 845 of the Supreme Court Report), as a decision by the Commission that:

"...until some change in the financial and market circumstances convinced the Commission that a different rate should be applied, the Commission would apply the rate of 6.5 per cent on the rate base as a fair and reasonable rate of return for the company."

No one, said Counsel, had asked for a similar finding in the present proceedings. He had no doubt that a finding in such terms had never been contemplated by either the Company or the Board, and no one asked the Board to say it would apply a rate of 7% in all such proceedings until it changed its view.

The last paragraph on page 855, and the first paragraph on page 856, of the Supreme Court Report gave the statutory rules governing the British Columbia Commission in fixing rates, as follows:

"(i) The protection of the public from rates that are excessive as being more than a fair and reasonable charge for services of the nature and quality furnished by the public utility; and

"(ii) To giving the public utility a fair and reasonable return upon the appraised value of its property used or prudently and reasonably acquired to enable the public utility to furnish the service."

Counsel said that, if the question of appraised value found in such statutory definitions were left aside, the rules found in that statute were, in his submission, equally applicable in the present proceedings. He submitted that, should the occasion arise, the Board would express its findings just as clearly as did the British Columbia Commission. If the Board reached a conclusion as to what was a reasonable return, he did not think the Board would be concerned whether it would or would not be bound by its finding in subsequent proceedings. That, however, was not the situation facing the Board in the current case.

Counsel agreed that the rate of 6.5% on the rate base was a rate that had been fixed in 1947 by the British Columbia Commission, but stated that this was interpreted by the Supreme Court of Canada as a finding that the Commission would apply that rate in each case until it had changed the rate as a result of changed conditions; the Commission did not change that rate and did not apply it, and for that reason the Supreme Court held it was bound by its own finding. This, suggested Counsel, was not the situation before the Board.

In conclusion, Counsel referred to his statement on the opening day of the hearings, (see section 3(a)(1) above), and quoted it in full. He said he was satisfied that the Board's finding concerning the basis on which a permissive level of earnings should be fixed could be stated in terms that would avoid the implications found in the *British Columbia Electric* case. Should the Board decide, as he submitted it should, that the percentage return on total capital submitted by the Company was a just and reasonable figure to be attained in the foreseeable future, the Board could accompany such a finding with a statement of the Company's intentions, as found in the record of the current proceedings, not to use such a finding to achieve forthwith a higher level of rates. There was an alternative to this, which had found favour with the Federal Communications Commission of the United States, under which the Board would avoid any specific commitments concerning a specific figure for the permissive level of earnings. Here, Counsel had in mind the quotation made earlier from that Commission's Public Notice 60279 with respect to the level of earnings of the A. T. & T., (see page 612 of this Judgment, section 3(a)(8) above), wherein the Commission had found that the earnings which it foresaw would result from the new rates would not be "at the upper limit of the permissible range."

If it would allay the fears that had been expressed, Counsel said he would suggest to the Board that its findings might well be: (a) that the return on the total capital of the Company, earned in the year 1964, was not in excess of a just and reasonable level; and (b) that such return for the year 1964 was not at the upper limit of the permissible range.

(b) On behalf of Industrial Wire and Cable Company Limited:

(1) The Bell Company's Relationships with Northern Electric Company Limited:

In the opinion of Counsel for Industrial Wire and Cable Company Limited, the Argument of Counsel for Bell, insofar as it concerned Industrial Wire's case with respect to the Bell-Northern relationship, was that the Board should disregard all the evidence presented by Industrial Wire mainly on four grounds. These were: (a) that there was a certain amount of prejudice in the evidence of Industrial Wire's witnesses, (but this was probably more an inference than a direct statement, said Counsel for Industrial Wire); that Dr. Thatcher was steeped in the American scene; (c) that Mr. Simonton was inexperienced in rate regulation; and (d) that both these witnesses were giving evidence on behalf of a competitor of Northern.

As to the first point, Counsel suggested that both Dr. Thatcher and Mr. Simonton were professional people who came before the Board to give the Board the benefit of their knowledge and experience. They had been severely and ably cross-examined and, in Counsel's view, neither of them had been shaken on his evidence, particularly on his fundamental opinion that, in order to understand the Bell-Northern relationship properly and to determine whether Northern's prices to Bell were reasonable, Northern's costs had to be looked at. These men, said Counsel, had nothing to gain by giving any evidence other than their honest belief and opinion, based on their experience and knowledge in their respective fields. Bell's case with respect to this aspect, on the other hand, was based on the evidence of its own employees; it did not call a single accounting witness and not one Northern employee was called to explain whether giving cost information would be desirable or undesirable from Northern's point of view. Further, not one independent expert was called to disagree with the basic views of Dr. Thatcher or Mr. Simonton.

On the second point, Counsel observed that the United States had been dealing with similar problems for many years and that there was an abundance of American jurisprudence thereon of high probative value. As to the suggestion that Dr. Thatcher was steeped in the American scene, Counsel noted that Bell had relied upon the evidence of Dr. Morton who came from the same university as Dr. Thatcher and pointed out that Dr. Morton had stated in evidence that the American principles laid down by the Supreme Court of the United States were also applicable in Canada. If Bell could rely on American experience, it was not too far-fetched to permit the same thing of those who opposed Bell.

So far as Mr. Simonton was concerned, he had frankly stated in evidence that he came before the Board as a chartered accountant and not as a rate

expert. As an accountant, Mr. Simonton was amazed that Bell did not know or seek the cost information of its subsidiary, Northern. His evidence that the practice in public companies was to have such information was uncontradicted. If that were the practice in unregulated industries, said Counsel, surely it should be the practice in a regulated company whose business practices should be beyond question.

As to the final point, said Counsel, it was admitted that Industrial Wire was a competitor of Northern. While Counsel for Bell had volunteered the information that Northern did only \$13 million worth of sales in a field competing with Industrial Wire, Industrial Wire had total sales of about \$500 million and distributed its products through 250 or more independent electrical distributors in Canada, while Northern, in this field, did its own distribution and had sales amounting to some \$75 million. Industrial was a relatively small Canadian company whose foreign-owned shares now represented a smaller percentage than Bell's.

Counsel said there was a statement which had been made to the effect that Industrial was asking for cost information only for the competitive reasons of Industrial. This was not true. To know Northern's rate of return on general product classes, as Industrial had asked, was of no assistance whatever to Industrial in a competitive way, because it would be impossible to determine the return to Northern on any specific item, with which Industrial might be in competition, from the rate of return on general product classes comprising many items. In Counsel's submission, the rate of return on general product classes would mainly assist the Board in determining whether Northern's participation in non-Bell fields was really beneficial to Bell. This was the only way that Bell could determine whether or not Northern's non-Bell activities were a financial drain, or whether it was wise to invest so heavily in activities so totally unrelated to the telephone business. Dr. Thatcher had given evidence related to Northern's allowable rate of return on non-Bell business but, said Counsel, Industrial was not concerned with whether the rate of return was restricted by the Board. Industrial believed, however, that when the information was obtained and the cost figures were analysed, it would be found that Northern's return on its non-Bell business would be low, rather than high, and that the return on Bell business would be proportionately high.

Counsel for Bell had also argued that the Board should not accept Mr. Van Scoyoc's suggestion that Northern's profits be included in the consolidated income of Bell, but it was clear that Mr. Van Scoyoc was giving this as an alternative only. Mr. Van Scoyoc, said Counsel for Industrial, was clearly of the opinion that, first and foremost, one should look at Northern's costs, but that in the absence of cost information he had suggested this alternative.

Counsel for Bell had also stated that Industrial had not produced a single example of a Northern price which was excessive. Counsel for Industrial said he assumed the price referred to was one from Northern to Bell, but he submitted that, without knowing Northern's costs, it would be impossible to prove a price excessive and, for this reason, the Board should look at Northern's costs.

Counsel for Industrial said his primary argument would deal with two main points: (a) whether or not the prices charged by Northern to Bell were reasonable and, if not, the consequences to Bell and to its subscribers; and (b) whether in all respects Bell's investment in Northern is beneficial and in the best interests of Bell Telephone subscribers.

Dealing first with the question of prices, Counsel said he would like to refer to some of the authorities on this point. He cited the following from the Board's Judgment in the 1958 Bell rate case, (76 C.R.T.C. 267, at page 295):

"On the evidence the Board finds that at this time Bell's investment in Northern Electric is not in fact prejudicial to the interest of Bell's telephone customers and, further, that prices paid to Northern Electric by Bell are as low as or lower than going prices.

"This finding is not to be construed as meaning that the Board considers that its jurisdiction is limited to the two specific points mentioned. It is true that the Board has no direct jurisdiction to require Northern Electric to do or refrain from doing any act, e.g., to require it to pay certain dividends. But the Board considers that in discharging its duty to fix just and reasonable rates, it is entitled to take into account all relevant factors."

Insofar as the Board's jurisdiction was concerned, Counsel cited the following from the Argument by Mr. J. L. O'Brien, of Counsel for the Bell Company:

"In respect of the considerations to be borne in mind by the Board in fixing just and reasonable rates, however, it is my submission that it has long since been settled by our highest Court that the limitations upon the powers of the Board in other respects do not here apply. In my submission, the Board is not limited in any matter in the matters which it may consider in fixing a general level of just and reasonable rates. The Board has itself expressed the limitations placed upon it in respect of individual rates, but, in my submission, in fixing a general level of just and reasonable rates the jurisdiction of the Board is unfettered."

Such matters, said Counsel for Industrial, were brought to the attention of the United States' Supreme Court as early as the nineteen-thirties. The leading case, the cornerstone upon which much later rate legislation was based and from which affiliated-interest statutes were taken, was that of *Smith v. Illinois Bell Telephone Company*, (282 U.S. Reports, page 133). In that case, said Counsel, Western Electric supplied almost all of the equipment of Illinois Bell, both

Illinois Bell and Western Electric being subsidiaries of the A. T. & T. At page 152 of the Report, Mr. Justice Hughes had the following to say:

"On the record in this suit the court concluded that the City had failed to support its contention that these prices were exorbitant. The court said that it appeared that for the past fourteen years the average profit of the Western Electric Company on its total business had not been 'in excess of seven per cent and never above ten per cent.' That fact has evidentiary value but the finding does not go far enough. The Western Electric Company not only manufactured apparatus for the licencees of the Bell system but engaged in other large operations and it cannot be merely assumed or conjectured that the net earnings on the entire business represent the net earnings from the sales to the Bell licensees generally or from those to the Illinois Company."

Counsel noted at this point that Western Electric did in fact deal to a large extent in non-Bell business at the time of this case. He continued the citation as follows:

"Nor is the argument of the appellants answered by a mere comparison of the prices charged by the Western Electric Company to the Illinois Company with the higher prices charged by other manufacturers for comparable material, or by the Western Electric Company to independent telephone companies. The point of the appellants' contention is that the Western Electric Company, through the organization and control of the American Company, occupied a special position with particular advantages in relation to the manufacture and sale of equipment to the licensees of the Bell system, including the Illinois Company, that is, that it was virtually the manufacturing department for that system, and the question is as to the net earnings of the Western Electric Company realized in that department and the extent to which, if at all, such profit figures in the estimates upon which the charge of confiscation is predicated. We think that there should be findings on this point."

Counsel observed that the Commission in the case cited had approved the prices because it had been shown comparative figures which seemed to be in order, but the Supreme Court had sent it back and said there would have to be findings on the cost. The Supreme Court Report continued at page 157 as follows:

"In view of the findings, both of the state commissions and of the court, we see no reason to doubt that valuable services were rendered by the American Company, but there should be specific findings by the statutory court with regard to the cost of these services to the American Company and the reasonable amount which should be allocated in this respect to the operating expenses of the intrastate business of the Illinois Company in the years covered by the decree."

Counsel observed that the appellants in this case were faced with the same argument which he presumed he would be faced with: that was, how could the Commission look to the cost of Western when Western was not before it in the case, or how could the Board look to the cost of Northern when it was not before the Board in the current proceedings. This had been dealt with at page 143 of the Report as follows:

"Upon these facts the City attacked the standing of the Illinois Company as the real plaintiff in the case. The court overruled this contention, holding that the ownership of stock by the American Company, and its power to control the Illinois Company, did not destroy the distinct corporate identity of the Illinois Company. The court pointed out that the order of the Commission was directed against the Illinois Company, and that it was treated as a corporation for the purpose of compelling it to establish the prescribed rates for service furnished by the operation of the property to which it had legal title. No ground appears for assailing this ruling. The fact that the relation of the Illinois Company to the American Company may demand close scrutiny, in dealing with certain questions which bear upon the validity of the rate order, cannot obscure the essential basis of that order, that is, that the Commission was imposing its requirement upon a corporate organization engaged in an intrastate public service and, as such, amenable to a valid exercise of the Commission's authority."

Counsel said that what the Court was saying in the foregoing citation was that "We are telling Illinois to get the information, and Illinois, of course, can get it. It is only a subsidiary of A. T. & T., but let us brush aside the corporate entities. It is all one really, and you can go to the A. T. & T. and get the information, and we want to see it." From this case, said Counsel, were born many of the affiliated-interest statutes and, as Dr. Thatcher had said, there were statutes in some States, but not in others, but all such statutes were derived from this case which held that such information must be obtained, even where there was no statute bringing the non-regulated industry before the jurisdiction of a particular commission.

Counsel said his next case was a decision of the Supreme Court of the United States, *Western Distributing Company v. Public Service Commission*, (285 U.S. Reports, at page 119). Although this was a gas case, the principles had been applied throughout the utility business, said Counsel. His citation was as follows:

"The appellant asserts that the rate charged by the pipe-line company for gas delivered at the city gate is an interstate rate and not the subject of regulation by any state authority. The soundness of this contention is conceded by the appellees. But the appellant argues that any inquiry by the state commission into the reasonableness of this charge amounts to an

indirect attempt at regulation, an effort on the part of the state to circumvent the paramount federal authority over interstate commerce, and hence an attempt to do by indirection what is forbidden by the Federal Constitution. The appellees disclaim any intent to control rates charged for interstate service, but they say that as the Commission's function is to set reasonable rates for intrastate service rendered by the appellant in the city of Eldorado, this necessarily requires a determination of the question whether the price paid for the gas distributed is fair and reasonable. To this end the Commission insists upon its authority to make such investigation as will satisfy it upon this point. Having in mind the affiliation of buyer and seller and the unity of control thus engendered, we think the position of the appellees is sound, and that the court below was right in holding that if appellant desired an increase of rates it was bound to offer satisfactory evidence with respect to all the costs which entered into the ascertainment of a reasonable rate. Those in control of the situation have combined the interstate carriage of the commodity with its local distribution in what is in practical effect one organization. There is an absence of arm's length bargaining between the two corporate entities involved and of all the elements which go to fix market value. The opportunity exists for one member of the combination to charge the other an unreasonable rate for the gas furnished and thus to make such unfair charge in part the basis of the retail rate. The state authority whose powers are invoked to fix a reasonable rate is certainly entitled to be informed whether advantage has been taken of the situation to put an unreasonable burden upon the distributing company, and the mere fact that the charge is made for an interstate service does not constrain the Commission to desist from all inquiry as to its fairness. Any other rule would make possible the gravest injustice, and would tie the hands of the state authority in such a fashion that it could not effectively regulate the intrastate service which unquestionably lies within its jurisdiction. The principles applicable in a rate investigation, where similar corporate relationship existed, were recently announced in *Smith v. Illinois Bell Telephone Co.*, 282 U.S. 133, 152-153, and no purpose would be served by repetition or elaboration of what was there said."

Counsel continued his quotation from this case from the bottom of page 125, as follows:

"The appellant adverts to the fact that in its bill of complaint are included a number of averments not denied by the appellees. In brief these are that the company does not own or produce any natural gas; that the only source of supply for the city of Eldorado is the main of the Cities Service Gas Company; that no supply at a lower price can be obtained from any other source; that the same rate is being charged to other

distributing companies along the lines of the Cities Service Gas Company, and was being charged by another independent pipe line to another city; that an ineffectual effort had been made to find local gas available to Eldorado; and that appellant had attempted to get a lower rate from Cities Service Gas Company but could not do so. It is urged that as these averments were uncontradicted they constitute, when taken with the facts previously stated, a prima facie case for the reasonableness of the rate charged. This might well be true were it not for the fact of unity of ownership and control of the pipeline and the distribution system. An averment of negotiation and effort to procure a reduction in the wholesale rate means little in the light of the fact that the negotiators are both acting in the same interest,—that of the holding company which controls both. All of these facts so averred in the pleadings would be far more persuasive with respect to the propriety of the rate if the parties were independent of each other and dealing at arm's length. Where, however, they constitute but a single interest and involve the embarkation of the total capital in what is in effect one enterprise, the elements of double profit and of the reasonableness of inter-company charges must necessarily be the subject of inquiry and scrutiny before the question as to the lawfulness of the retail rate based thereon can be satisfactorily answered."

.....
 "The argument is made that the proofs demanded by the Commission will involve an extensive and unnecessary valuation of the pipe-line company's property and an analysis of its business, and that this burden should not be thrown upon appellant. Whether this is so we need not now decide. It is enough to say that in view of the relations of the parties, and the power implicit therein arbitrarily to fix and maintain costs as respects the distributing company which do not represent the true value of the service rendered, the state authority is entitled to a fair showing of the reasonableness of such costs, although this may involve a presentation of evidence which would not be required in the case of parties dealing at arm's length and in the general and open market, subject to the usual safeguards of bargaining and competition."

Counsel referred to a number of other cases, as follows: *Lone Star Gas Company v. Federal Power Commission*, (304 U.S. Reports, page 224, particularly at pages 236 and 237); *Colorado Interstate Gas Company v. Federal Power Commission*, in the U.S. Supreme Court, (324 U.S. Reports, page 581, at page 609); and *Polar Electric Company v. Pennsylvania Public Utility Commission*, (137 Pennsylvania Superior Court Reports, page 325, particularly at page 373). He made the following quotations from these cases:

Colorado Interstate case, at page 609:

"I suppose a Commission is free to take evidence as to conditions and events quite beyond its regulatory jurisdiction where they are thought to affect the cost of that whose price it is directed to determine. This, as I see it, is all that has been done here."

Polar Electric case, at page 373:

"Charges arising out of inter-company relationships between affiliated companies should be scrutinized with care....; and if there is an absence of data and information from which the reasonableness and propriety of the services rendered and the reasonable cost of rendering such services by the servicing companies can be ascertained by the Commission, allowance is properly refused."

Polar Electric case, at page 374:

"The desire of public utility management, evidenced by various methods, to secure the highest possible return to the ultimate owners is incompatible with the semi-public nature of the utility business, which the management directs. It therefore follows that the Commission should scrutinize carefully charges by affiliates, as inflated charges to the operating company may be a means to improperly increase the allowable revenue and raise the cost to consumers of utility service as well as an unwarranted source of profit to the ultimate holding company."

Counsel then referred to a recent decision of the Supreme Court of California, in connection with an appeal by The Pacific Telephone and Telegraph Company, et al, from a decision of the Public Utilities Commission of the State of California, (the latter decision being reported in 53 P.U.R., 3rd., page 513). In this case, said Counsel, the California Commission had been asking for affiliates' costs for some 50 years, but this was the first time it had ever been taken up to the Supreme Court of that State. Extensive comparative statistics had been submitted in the case before the California Commission; it was also proved that Western had worked continuously and successfully to reduce costs and to pass on the savings to Bell operating companies; and the record showed that Pacific was free to purchase from other sources, but that the cost of procurement through Western was so advantageous in almost every case that Pacific could not but accept the cost advantages from Western. Comparative prices with respect to other manufacturers were submitted and the obvious advantages Western had over such other manufacturers were described. Under such circumstances, it was said, there could be no real, valid comparisons with other companies because there was nothing with which to compare Western's operations.

Counsel quoted the following from the mimeographed decision of the Supreme Court of California, commencing at page 36:

"Pacific disputes none of the commission's factual recitals as above set forth, but nevertheless asserts that the commission's decision erroneously omits to include a finding of fact as to the reasonableness or prudence of Pacific's purchases from Western and payment of the prices charged, and that a finding in Pacific's favor was compelled by the evidence. This contention is without merit. The decision discloses that Pacific did not, and apparently could not, present convincing comparisons between the prices of Western and those of other manufacturers, or other evidence, which would establish beyond question the reasonableness for rate fixing of prices paid by Pacific to Western, its controlled affiliate. Cases cited by Pacific involved other records and other findings in other contexts, and of course do not suggest that a utility is entitled to favorable findings as a matter of right in the absence of undisputed evidence on the point. The determination of the Commission in the present case that Western is entitled to no greater return on its sales to Pacific than Pacific is entitled to earn on its operations, and that American should not be permitted through the corporate instrument of Western to subject Pacific's ratepayers to the burden of providing a greater return, is based not only on extensive findings made by the Commission on the subject but also on the methods and principle theretofore followed by the commission."

Counsel observed that, notwithstanding the rather overwhelming evidence that the payments made by Western were proper and comparative, the cost was looked at.

Another recent case, said Counsel, was a decision of the Appellate Division of the Supreme Court of New York, *General Telephone Company of Upstate New York Inc. v. James A. Lundy et al., Constituting New York Public Service Commission*, (57 P. U. R. 3rd., page 328). This decision was dated February 2, 1965, and Counsel cited the following therefrom:

"AE, [i.e. Automatic Electric Company and its wholly-owned sales subsidiary, Automatic Electric Sales Corporation], since affiliating with the General System, has earned on that portion of its invested capital represented by common stock and surplus over 19% in its two least favourable years, over 30% in its best two years, and from 25 to 28% in other years. On the same basis of computation, the earnings of the Leich companies, while affiliated, and prior to their 1962 merger with AE, ranged from over 28% to highs of over 50% in two years, the weighted average for the period being 43%."

In this case, said Counsel, there was evidence called to show the reasonableness of prices and the opinion of the Court was:

"We are unable to say that the commission acted arbitrarily or unreasonably in finding that these very high profits indicated highly inflated prices which could have been materially reduced. In this situation, the commission was not, of course, constrained to give controlling effect to the proof that the prices paid were no greater than those charged by the affiliates to unaffiliated companies or those which other manufacturing and sales companies charged their customers."

.....
 "If the inquiry into and the scrutiny of profits, recognized in *Smith (supra)* and again in *Western (supra)* as necessary and proper, do disclose the unreasonableness of the intercompany charges, despite comparable charges by others, the corollary right of the commission to make proper adjustment is self-evident, unless that right of scrutiny is to give rise to nothing more than an exercise in futility. The issue is not the right of a supplier to charge a particular price or the right of the customer to pay it, but, rather, the right of the commission to enforce the paramount public interest in a rate that shall not reflect inflated costs. That the commission's determination is thus in pursuance of its proper function, and is not a rate-fixing process applied to nonutilities, seems too clear to require discussion; and we find petitioner's contention to the contrary, and its reliance upon authorities clearly inapposite, alike unfounded."

Counsel said that the practice in the United States of looking at costs had been primarily because of the absence of arm's-length bargaining and the cases cited pointed out that the method to be used in finding out whether the prices charged were reasonable was to look at costs to arrive at a proper conclusion. Modern thinking on this question was that little reliance could be placed on looking outside the Northern-Bell relationship in determining the reasonableness of prices. While it was true that the various United States' commissions could not order a subsidiary to produce information, they had also made it quite clear that they had no hesitation in ordering the regulated company to obtain that information from them if it could.

With respect to the Touche, Ross, Bailey & Smart Report on prices to Bell, (Exhibit No. B-52), Counsel observed that the Bell Company appeared to rely on it very heavily, although the man who prepared the Report was not called as a witness. Mr. Simonton had pointed out that the price comparisons in this Report were directed to categories of Northern's sales representing about only one-third of Northern's sales to general sales customers. It was conceded by Bell that, because of Northern's volume of sales to Bell, Northern's costs were substantially reduced, but no attempt had been made to establish

that such cost reductions had been passed on to Bell. It was true that Bell had said there had been price reductions, but there was no evidence before the Board as to whether these were adequate. Because of its advantages by way of volume, Northern could still make excessive profits on sales to Bell, even though Northern's prices to non-Bell customers were higher; Dr. Thatcher had pointed out that there was no true competitive market in which Northern was disciplined to keep its prices low on non-Bell sales of telephone materials.

Counsel observed that a review of Exhibit No. B-52 provided a good example of the possibilities for Northern to make excessive profits on sales to Bell. This exhibit showed a spread of about 100% between Western Electric's prices on telephone apparatus sold to Bell companies in the United States and the prices of other United States' suppliers of telephone apparatus. This pointed out the necessity of looking at Northern's costs of manufacture to determine what, if any, spread there was between Northern's prices and the prices charged by other manufacturers in Canada. Bell's Exhibit No. B-51 referred to the procedures it used to determine whether prices were reasonable, but such procedures were obviously those commonly used by companies purchasing from unrelated companies where cost figures were, of course, unavailable. This, however, as Dr. Thatcher had pointed out, was no substitute for a thorough review of Northern's costs and expenses.

With respect to the Touche, Ross Report, said Counsel, reliance had been placed by the auditor on sales covered by an analysis prepared by the Bell Company. In Counsel's view, auditors should make their own analyses. Moreover, it was significant that, nowhere in the Report or in Bell's evidence, was there a statement that the auditor was asked to compare prices only where conditions were comparable. There was no evidence that export sales were not made under conditions comparable to those of domestic sales. Export sales had been excluded from the Report, but even if it were true that such sales were not made under "comparable conditions", Bell was not necessarily getting the best price if Northern could sell for less on the export market and still make a profit. Some items had been excluded because they were not produced in significant quantity, but there was no evidence before the Board to establish what was considered to be a significant quantity. The Board was also left, in Counsel's view, completely in the dark as to the nature of the market in which Northern sold to non-Bell customers. Surely, he said, there had to be some evidence that it was a freely-competitive market and that there were, in fact, other companies which could sell in competition with Northern before comparison with the prices of such companies could be deemed to be true. Nowhere was there any statement that the profits earned by Northern on sales to Bell were reasonable; the Touche, Ross Report did not say that the prices, in their opinion, were reasonable, and it did not state whether in their opinion the method of comparison was adequate in the circumstances of the Bell-Northern relationship.

In Counsel's submission, a review of the Bell Company's evidence respecting Northern led to the conclusion that the Board should scrutinize very carefully the Bell-Northern relationship, and particularly the prices charged by Northern to Bell. It appeared to be common ground between all parties that Northern Electric had tremendous advantages because of its volume and in particular because of its association with and supply contract with Bell. Such economies of scale should be passed on to benefit Bell and its subscribers, and Bell should be required to establish to the Board that this was being done. Without an examination of Northern's records, however, the Board could not make a decision as to whether, and to what extent, there should be price reductions to Bell.

Counsel said that no evidence whatever had been called by Bell concerning Bell's and Northern's interpretation of the term "comparable conditions" used in the Supply Contract; it was therefore impossible for the Board to decide whether the Contract was in fact being reasonably interpreted in this regard. Perhaps, with some justification, Bell and Northern considered that very few sales were made under precisely comparable conditions and, if this were so, that clause in the Contract provided little protection to Bell. It might be that the export sales which were mentioned were not made under comparable conditions, but the Board was entitled to have evidence before it to this effect.

Counsel noted that several of the Bell Company's witnesses had agreed that it would be helpful to know Northern's costs in determining whether Northern's prices to Bell were fair and reasonable. Mr. Inglis, (the witness on the Touche, Ross Report and on price comparisons), had agreed that knowing the actual costs of Northern would be of assistance to the Board, although he did not think it was Bell's function to know the manufacturer's costs. Mr. Lester, (the witness on Bell-Northern corporate relationships), had stated that he expected Northern would look at its costs when considering price reductions; he had also stated that, as unit costs dropped, Bell expected a reduction in price. Mr. Leadbetter, (the witness on the Supply Contract), had agreed that Bell had access to Northern's costs with respect to fixing the percentage in Appendix A of the Supply Contract, [Note: Appendix A deals with rates of remuneration for Northern's services as purchasing agent, storekeeper, etc.]; at the same time, he had agreed it would be helpful to the Board to have cost figures in determining the reasonableness of Northern's charges to Bell. Mr. Leadbetter had specifically stated that Bell did have access to Northern's records in checking certain other items under the Supply Contract and that that such cost records were regularly reviewed by a committee of Bell and Northern.

When, said Counsel, Bell's own witnesses agreed it was helpful to know Northern's costs, in determining whether Northern's prices to Bell were fair

and reasonable, and when Mr. Simonton, Dr. Thatcher and Mr. Van Scoyoc had said it was essential to know such costs, an attitude which agreed with thinking in the United States, then this had to be persuasive to the Board in making its decision. It appeared to Counsel that Northern in all probability had such cost records and that, therefore, the task would not be overly burdensome. Mr. Simonton had testified he had no doubt Northern had a well-organized cost system; he was not cross-examined on this statement, nor did Bell present any evidence to refute this statement.

In Counsel's submission, it was essential that the Board look at the cost to Northern of providing the services to Bell set out in Appendix A to the Supply Contract. An example of what appeared to be an excessive charge was the 10.5% charge on items shipped direct to Bell by outside manufacturers without any warehousing by Northern; it also appeared that this charge applied even on repeat orders of stock items. Further, there appeared to be no fixed instruction for the classification of special stocks which carried a charge of 12.7% rather than 10.5%. The Board should therefore look at Northern's costs in order to satisfy itself the charges made were reasonable.

With respect to the evidence of Dr. Thatcher, Counsel said that much of the cross-examination of this witness had to do with the words "affiliated company" and the difference in meaning of such words in different contexts. In doing this, Bell was attempting to differentiate between the Bell-Northern situation and the A. T. & T.-Western Electric situation in which the American courts and commissions had forced Western to produce cost records. Counsel for Bell had argued that, in the United States, the profits of Western Electric did not return to the operating company, whereas Northern's profits did return to Bell, and that therefore the two situations were not comparable. Counsel for Industrial Wire, however, submitted that, in the Bell-Northern situation, a stronger case could be made for looking at Northern's costs than had been made by the Applicants in the case of *Smith v. Illinois Bell*, mentioned earlier. In that case, the court had held that there was no arm's-length bargaining, even though the companies involved were not as closely related as Bell and Northern. In Counsel's view, the Board should pay particular attention to the point that the United States' courts had treated the group of associated companies as one entity, authority for that proposition being found in the *Western Distributing* case, where it was also held that there was an absence of arm's-length bargaining. The recent case before the Supreme Court of New York, with respect to the General Telephone Company of Upstate New York, had also made it quite clear that the overriding principle was that telephone rates should not reflect inflated costs.

Counsel noted that the Board had always considered in the past that prices should be reasonable and observed that the American cases cited simply provided

a procedure to ensure they were reasonable. Mr. Simonton had stated in evidence that price reductions by Northern would provide an immediate benefit to Bell and its subscribers, but that pricing policies between Bell and Northern, which resulted in increased earnings for Northern, would benefit Bell and its subscribers only to the extent that such earnings were eventually paid out as dividends to Bell. Mr. Simonton had also said that Northern's retained earnings were firmly committed to financing Northern's operations and he did not see how they could be paid to Bell. Future dividends could be paid to Bell only to the extent that they were declared by Northern's directors. In other words, said Counsel, it was the submission of Industrial Wire that the Board had to know Northern's costs to satisfy itself and the public that subscribers were getting the full benefit of the Northern relationship.

Dr. Thatcher, said Counsel, had provided a number of reasons for the necessity of a regulatory commission to look at a subsidiary supplier's costs. These were: an absence of arm's-length bargaining; no competitive price established under strict competition; comparative prices provided no proof that the prices charged by others were reasonable; and the non-comparability of Northern's prices because of its advantages by way of large volume and its relationship to Bell. Dr. Thatcher had suggested that the system of cost allocation employed by Western Electric in the United States was a practical way of dealing with the Bell-Northern relationship. Western's experience in this field would, Counsel assumed, be available to Northern and, with its existing cost records, the task would not be unreasonable.

Both Dr. Thatcher and Mr. Simonton had emphatically stated their opinion that the evidence submitted by Bell was completely inadequate to determine whether Northern's prices to Bell were reasonable. Besides the economic reasons given by Dr. Thatcher, Mr. Simonton had pointed out why the Touche, Ross Report was inadequate for this purpose. Excessive profits could be made on sales to Bell, while still complying with the Supply Contract requirement that sales to Bell must be at prices as low as to Northern's most favoured customer for like materials and services. This had been graphically shown in the New York Supreme Court Case involving General Telephone where profits were high although the supplier still sold for less than competitors.

Counsel submitted that, on the evidence before the Board, it was impossible for the Board to say whether or not there should be an immediate reduction in the prices charged to Bell by Northern. The Board, therefore, ought to order Bell to furnish information along the lines of that provided by the Western Electric Company, such information to include cost information on all products by main product classes and the return on the investment separated into main product classes. Such information should also be segregated as between sales and other income activities, and should be further divided into sales to Bell and

non-Bell customers. The three main product classes of apparatus, equipment, and cable and wire would likely be a sufficient product classification, although a study would undoubtedly have to be made to determine whether or not there should be others. Counsel did not think that, in view of Mr. Simonton's statement as to the existing cost records of Northern, the cost of doing this would be exorbitant. He submitted that taking cost allocations and working with Northern's costs would probably suffice the purposes of the Board; it would be an accounting problem rather than a complete study of the affairs of the company. There would, of course, be the question of testing the allocations of costs, but Counsel thought there were accepted accounting procedures for this. He also agreed that certain sound assumptions would have to be made and that the study could not be perfect, but if the basic procedure followed by Northern was looked at and spot tested, the Board would not necessarily get into a large engineering problem. Finally, Counsel was of the opinion that a breakdown into main product classes would reveal nothing to a competitor of Northern.

With respect to the question whether the retained earnings of Northern would benefit Bell and eventually Bell's subscribers, if they were profitably invested in plant, Counsel noted that Mr. Simonton had said that Northern's retained earnings would benefit Bell's shareholders if used wisely and profitably, and if they earned a rate of return at least as high as Bell's permissive level of earnings. Counsel said he agreed with this, provided the Board knew what Northern's earnings were on its Bell and its non-Bell business, because if there was a lower rate of return on non-Bell business, as a result of a higher rate of return on Bell business, the subscriber would be prejudiced. If that were so, the subscriber would be subsidizing an unprofitable business unrelated to the telephone industry. To the extent that Bell had overpaid Northern for goods or services, there was an immediate detriment to the subscriber; if the amount of overpayment was paid back in dividends, the subscriber might be recompensed, but only partially so, because an adjustment would have to be made for depreciation charges on the overpayment. Thus, in Counsel's submission, the sound regulatory approach was one which assured the subscriber he was being charged proper rates based on fair prices to Northern.

Counsel submitted that, in order to determine whether the Bell-Northern relationship was in all respects beneficial to Bell's subscribers, it was necessary to know, first, whether Northern's prices to Bell were reasonable, by examining evidence of the return to Northern on Bell business and, second, whether Northern's non-Bell business was profitable, by looking at the return on such non-Bell business. The non-Bell business, said Counsel, might be extremely unprofitable in some lines and be a drain on the profits of Northern which might otherwise accrue to Bell's subscribers.

In this connection, Counsel noted that Mr. Lester's evidence concerning Northern's subsidiary, Dominion Sound Equipment Limited, was that he did not know what business was carried on by this subsidiary, although he was a Vice-President of Bell and a director of Northern. Nevertheless, he had attempted to defend this subsidiary on the grounds that whatever it produced broadened the base of Northern's operations. He had given essentially the same answer with respect to Northern's retail sales of such things as screwdrivers and light bulbs. Thus, Counsel observed, Mr. Lester appeared to be attempting to defend the proposition that it was proper for Northern to be in any business, so long as that business made profits, yet in his evidence-in-chief, he had stated that Northern had left the "white-goods" business in order to concentrate more fully on the requirements of the telephone industry.

Counsel said that the evidence showed Northern's non-Bell sales were increasing. It was therefore difficult for him, Counsel said, to understand how Northern could defend its non-Bell business, unrelated to the telephone business, as being proper and desirable, on the one hand, and show the benefits of the Bell-Northern relationship by stating it left the "white-goods" business to concentrate on the telephone business, on the other hand.

Counsel also noted that, for 1964 at least, Northern's earnings did not include any dividends from subsidiary companies. While the investment in subsidiaries might be small, (Counsel thought it was about \$1.8 million), it could not be assumed that the earnings of such subsidiaries were insignificant, or that the amount of retained earnings of such subsidiaries was not important.

In conclusion, Counsel said it was significant that Bell did not call any witnesses to disagree with the evidence of Dr. Thatcher or Mr. Simonton, neither had Bell called a single expert to say it was not necessary to look at Northern's costs. Indeed, Bell's own witnesses had said it would be helpful to look at these costs. This, said Counsel, should be sufficient to persuade the Board that it should demand the production of Northern's costs in the interests of Bell's subscribers.

(c) On behalf of the Canadian Federation of Mayors and Municipalities et al:

(1) Opening Statement:

At the opening of the hearings, Counsel for the Municipalities responded to the opening statement by Counsel for Bell, (see section 3(a)(1) above), as follows. He welcomed the opportunity to look into Bell's operations to determine how they affected the interests of subscribers and stated the intention of his clients to examine into all costs, particularly those of obtaining capital. He noted that Bell had about 40% of its capital in bonds, on which the interest

burden was only 4.8%, and that 60% of its capital was in the form of common equity, (i.e. shares, plus premiums on shares, plus earned surplus). Bell had asked for an overall return on invested capital of 7%, but as 40% of the capital was in bonds requiring a return of only 4.8%, this would mean a return of about 8.5% on common equity. The Municipalities felt, however, that Bell should have a return of only 7% on common equity, or an overall return of 6.1% on invested capital.

Counsel observed that the Board, by its Judgments of 1950, 1952 and 1958, had fixed earnings for the Company at \$2.43 per share; in 1964, this was equivalent to 5.9% on overall capital, or 6.6% on common equity. Bell had actually earned 7.3% on common equity in 1964, or 6.3% on all capital. Counsel said his clients were willing to concede earnings of \$2.59 per share, or 7% on common equity, or 6.1% on overall capital.

Although the permissive level of earnings had been fixed at \$2.43 per share, Counsel noted that Bell's earnings had actually been as follows:

<u>Year</u>	<u>Earnings per Share</u>
1959	\$2.48
1960	\$2.52
1961	\$2.50
1962	\$2.66
1963	\$2.58
1964	\$2.71

Such earnings were all considerably over the permissive level, yet as Counsel for Bell had pointed out in his opening statement, the Company had done nothing to instigate or bring about the current hearing. It also had done nothing to reduce rates so that the permissive rate of return would be the \$2.43 fixed by the Board.

Counsel for the Municipalities said that the main view, therefore, was whether Bell should get 8.5% or 7% on its common equity capital. His clients considered that Bell should finance more by way of bonds so as to raise its debt ratio to at least 50% like the electric utilities. This would effect obvious savings in lower returns because interest was deductible as a cost for income taxes. In this connection, Bell's requested 8.5% on equity capital would require 17% before income taxes, compared to 4.8% for bonds. The Municipalities felt that a return of 7% on common equity was just and reasonable because it was greater than Bell's cost of capital, as shown by the acid test of the market place, and such a return would enable Bell to attract all the capital it needed. Bell had obtained \$1.5 billion of new capital since the last rate case in 1958, when its permissive rate of return was less than 7%.

Counsel said it should not be forgotten that investors benefitted from the retained earnings in Bell's subsidiaries, (equivalent in 1964 to 12 cents per Bell share), and from periodic privileges or "rights" to buy Bell shares at prices far below the market price, (e.g. at 74.6% of market price in March, 1954). In this connection, Counsel said the Municipalities had exhibits to show that such "rights" were worth about 71 cents per share per annum from 1949 to 1964.

The Municipalities, said Counsel, did not consider that Bell needed the higher return of 8.5% on common equity, which was an increase of 30% over the permissive earnings established by the Board, and an increase of 21% over the 7% considered just and reasonable by the Municipalities. If Bell's shareholders were granted the higher return of 8.5%, in addition to their benefits from the retained earnings of subsidiaries and from their "rights" to buy Bell shares, then the Municipalities considered that this would necessarily result in an early demand for much higher tolls to make the higher earnings possible. Investors would inevitably expect the regulatory authorities to grant rates to produce the return that would have been fixed. And, once the rate of return had been fixed, how would the Board be able to determine whether the demand for higher rates resulted from inflation, inefficiency, or some other cause?

Canada and the world, said Counsel, were facing a period of great uncertainty. Apart from the international situation, balance-of-payments problems, the crisis in international liquidity and international finance, there had been a fifty-six months' period of continuous business expansion, second only to the sixty-one months' period between April, 1924 and April, 1929, which was approaching its inevitable end. Counsel considered that Bell's demands were not just and reasonable in the context of the serious circumstances facing everyone. Bell's stock, with a 7% return, plus the benefits of the retained earnings of subsidiaries and the benefits of rights' issues, was an attractive, defensive stock which should continue to attract investors in the troubled days which lay ahead. Any attempt to turn it at the present time into a volatile, so-called "growth" stock was not desirable, nor was it in the best interests of either subscribers or shareholders.

(2) The Economic Characteristics of the Company and its Growth:

Counsel recited, and commented on, what he described as the characteristics of the Company. He asserted that the Company's labour costs were very high in relation to gross revenues and operating expenses, particularly by comparison with electric utilities. In this connection, the Company had furnished figures which disclosed a ratio of total employee expense to operating revenue of 29.82% in 1963, and a ratio of total employee expense to operating expense of 46.19% in the same year. The Company had claimed that costs increased with volume, in that every telephone had to be connected to every other telephone, but

this had often been disputed. Bonbright*, with reference to switching apparatus, had said there was a possible decreasing offset in outside cable and wire systems and Counsel thought it was no longer true that increasing costs necessarily followed in what he termed "a vertical-growth service." This, he said, was a factor which distinguished the Company from electric companies. As to the potential rate of revenue growth from each telephone, Counsel considered it was limited and smaller than that obtaining in respect of each electric power user. There was the problem of the elasticity of demand for many of the Company's services. The Company's debt ratio was lower than that of electric utilities and its average equity per share rose slowly due to the heavy dilution resulting from rights' issues and sales of shares to employees at prices far below market prices. The Company had a high ratio of net earnings to gross operating revenues (sales), which amounted to 14.3% in 1964; this was a very high ratio compared to that for most industries, but it did not reflect any inefficiency and was simply a factor in the telephone business. This meant that it required a greater increase in sales than for smaller companies to increase the relationship of net earnings to sales.

Counsel said the relationship of operating revenues to the Company's invested capital, ("capital-turnover ratio"), was low and that this required a greater investment per dollar of annual revenues than commercial or industrial operations; thus, total fixed costs were greater and more independent of volume of service. The Company's potential net profit was limited by the growth of depreciation in recent years. Counsel noted that a characteristic of utilities was that they were required to have greater capacity at all times than could be fully used. There was also a time lag during construction and, during this time lag, the Company had to pay returns on additional shares before receiving revenues from the construction paid for by such shares; the Company, said Counsel must find ways of reducing this gap.

There had been a decline in the rate of growth of the Company's operations, which was only natural after the long post-war upswing, and this decline was continuing, even if no recession developed. Between 1957 and 1964, the rate of increase in telephones had declined from 6.2% to 5.1%. The number of telephones had doubled from 1954 to 1964, but if, as Bell had stated, only 200,000 additional telephones would be added annually, this would mean an addition of only 46% over the next decade, compared with 100% in the past decade. An increasing number of telephones were extensions rather than main stations and households without telephones had declined from 14% in 1957 to 8% in 1964. Between 1957 and 1963, the rate of increase in telephone property had decreased from 14.86% to 8.6% and the rate of increase in invested capital had declined from 14.3% to 8.08%. The rate of increase in year-end operating revenue per telephone had

* - James C. Bonbright, *Principles of Public Utility Rates*, (1961), page 17, Note 15.

fallen from 4% to 1.6% and, between 1959 and 1963, the increase in revenue per telephone had been 8.85%, or 2.21% per annum.

With respect to the question of what Counsel termed "vertical growth", Counsel noted that he had experienced some difficulty in obtaining facts from which he could draw a meaningful answer, but said this was not altogether the fault of the Company. In a letter to Counsel, dated March 26, 1965, the Company had stated that: "The following may to an extent be analagous to 'vertical growth': all contract revenues except those from main telephones, Centrex, PBX trunks, fringe radio and semi-public guarantees." In 1964, contract revenues amounted to \$295 million, the foregoing exceptions totalling \$216 million, thus leaving a balance of \$78 million, or about 14% of operating revenues. Counsel said he understood that long-distance revenues were considered part of "vertical growth", but, leaving such revenues aside, the other "vertical-growth" revenues were a very small part of the total. However, said Counsel, it was not known what profit was being made on these so-called "vertical-growth" revenues and the amount of profit, or some idea of it, should be known. In this connection, Counsel referred to a magazine article in which it was stated that the ability of the A. T. & T. "to provide plain service will increasingly depend on what it makes on its fancier services." Since Bell had been unable to supply Counsel with any figures whatsoever as to its costs for, or profits from, these additional "vertical-growth" services, Counsel said Bell had not presented any proof of a potential growth in profits in this area.

As to the question of stability in the telephone business, Counsel referred to another magazine article which asserted that the vulnerability of the telephone business to cyclical factors had decreased and that the Bell System in the United States had experienced annual gains, ranging from about 6% to 10%, in the latest four recessionary periods. This, he said, supported that part of his submission, reading as follows:

"It would appear that the facts support the continuation of the historical development of Bell as a utility with a record of constant, gradual progress and stable reasonable earnings, and dividends over the business cycles.

"The limiting nature of the characteristics of Bell as a telephone stock are not such as to readily convert it into a growth stock. This can only be done at the expense of higher tolls than are necessary for Bell to maintain its integrity and attract capital."

Bell, Counsel continued, had testified concerning the risk involved in new products, but it had also said that it created the product and then stimulated the demand for it. Thus, in Counsel's view, it had the growth of such products under its own control. The Company, he said, should not ask for a greater rate of return because of this factor; there was little risk involved in the provision

of basic services and there should be no guaranteed rate of return on the new products, many of which might be unnecessary.

Dealing with the matter of growth stocks, as opposed to income stocks, Counsel referred to *Security Analysis*, (4th. Edition, 1961), by Graham, Dodd, Cottle and Tatham, which he said was widely used by investment people. He quoted the following definition of growth stocks from that book:

(Page 428) "...those which have maintained a *pronounced* (substantially above average) rate of growth over a period of years and are expected to continue to do so. In our opinion, the past span ordinarily should be in excess of five years."

He also quoted the following with respect to utilities, from page 530 of the book:

"...the industry typically does not possess the speculative growth possibilities found in certain manufacturing and industrial enterprises.."

Counsel noted that, in the 1958 case, Counsel for Bell had said the following:

"...we are not in the situation of private industry where they can defer earnings, and where the investor can look forward to a growth in the stock for capital gains..."

"The common stock of Bell is an income stock. This means that the person investing in that stock does so without any real hope of capital gain, but in the expectation that there will be regularity and consistency in the payment of its dividend."

"Bell's common stock is not a growth stock and the only basis on which continued confidence in its stock can be maintained is through certainty that regular dividends will be available over the long run."

The greatest problems in growth stocks, said Counsel, were: (a) the power of compounding the return; (b) the question of how the rate of growth was to be sustained; and (c) the question of what happens when that rate of growth ceases. In this connection, Counsel read extracts from an article by Ralph E. Badger in the January-February 1963 issue of the *Financial Analyst* to the effect that the compounding process assumed earnings at a constant or increasing rate on invested capital; that an established company may already have experienced its most rapid period of growth and be faced with slower but more certain growth; that growth prospects may be easily over-priced; that, despite a favourable economic climate, many important industrial companies had failed in recent years to increase profits with overall economic growth and had found it difficult or impossible to employ profitably additional equity capital; and that, during the period 1955 to 1961, corporate profits had remained essentially stationary.

Counsel also referred to a number of other articles on growth stocks and on economic growth. He noted that Professor R. M. Solow of the Massachusetts Institute of Technology had inferred in a recent article that there was no reputable economist who would talk of a 5% growth rate, yet the Economic Council of Canada had stated it was necessary to have a 5.5% growth rate till 1970 in order to absorb additional workers in the labour force.

Counsel quoted other extracts from the article by Professor Solow and observed that, if the ups and downs of the business cycle were not levelled out in the future, there would likely be a recession sooner or later in which the rate of profit would drop. Even if such ups and downs were levelled out, then the rate of profit would likely drop. He noted that Counsel for Bell had spoken of the decreased growth in Bell's operations in his Argument and that Mr. Atchison, in his evidence on investor appraisal of the Company, had said that Bell's substantial capital expenditures for the future would be a steadily-diminishing percentage of existing plant, hence requiring less outside financing and, in turn, less dilution of the shareholders' interest. He inferred from this that investors would be delighted if the pace of Bell's expansion were to level out with less consequent dilution of equity.

In conclusion, Counsel said that one of the forces militating against growth stocks was the countervailing discount of future growth by way of a rise in market prices; sometimes it appeared to discount the future to such an extent that investors were purchasing lesser earnings with greater dollars, and the effect of a return to normal could be brutal.

(3) The Company's Pension Plan:

Counsel observed that the Company's Pension Plan was non-contributory and that the evidence showed that the majority of Canadian plans were contributory. The Canada and Quebec funds were contributory, whereas most Canadian telephone funds were not. On the other hand, almost all electric utility funds were contributory. Counsel suggested that a study should be made by the Board to determine whether non-contributory plans were better or worse than contributory plans, insofar as the burden on subscribers was concerned.

With regard to the fact that the Company followed the accrual method in funding the plan, Counsel said that the fact that this system was used by the Canadian and Quebec governments did not prove it was the best or the least expensive. In 1964, for example, the Company had paid \$10.9 million into the fund, and the fund's investment income had amounted to \$9.2 million, making a total of \$20.2 million, while the disbursements from the fund had been only \$5.9 million. Counsel said he was appalled at the expense of the plan and he thought the Board should make a study of the situation.

Counsel observed that the Company's Pension Plan had a great lack of progressivity, in that it applied equally to top executives and minor employees, with the exception that the pension was 1.0% for salaries over \$10,000 instead of 1.1%. He suggested that the plan should be made more progressive. He also thought that there should be no liberalization of the plan without the approval of the Board.

Counsel noted that only 7% of the fund's investments were in stocks and asked why it should not buy Bell stock. He thought that the comparisons with other funds which the Company had made were not satisfactory and that there was no evidence that the change made in March 1959, from a pension base of the ten highest to the five highest consecutive years, was reasonable.

(4) The Employee Stock Plan:

Counsel's Argument on this point is not summarized here, because the issue was dealt with at a subsequent hearing, held in Ottawa on February 15, 1966, Judgment on which was rendered on February 18, 1966, (56 B.T.C., Pamphlet No. 6).

(5) Depreciation:

Counsel said he had little to add to the evidence on depreciation. He noted that the California Commission had ordered the use of the straight-line, remaining-life method, which placed emphasis on estimated service life rather than estimated average total life, whereas Bell used the straight-line, total-life method. Both methods, however, were group methods. Even if obsolescence were an important factor in depreciation, it was reflected in the depreciation rates paid by subscribers and, since Bell could control obsolescence, it should not be too great a factor. Although obsolescence might be growing, it was Counsel's opinion that the new plant was much more productive than the old. If serious obsolescence should occur, the Company should amortize it over a period of time, instead of retiring obsolete plant all at one time. Counsel suggested, in this connection, that the Board should, in its periodic examinations of Bell's affairs, ascertain the extent to which obsolescence was growing and the magnitude of such obsolescence. If necessary, the Board should control the situation by seeing that Bell amortized major obsolescence over a period of years; it should not be considered as a reason for raising rates or the rate of return. Since, in some cases, Bell had said it created demand, they could to that extent control obsolescence. If obsolescence were growing at the rate to which Bell had referred, then this would militate against too fast a rate of growth and Bell shareholders should share in the increased cost, at least to the extent of not demanding a higher rate of return.

(6) *In re the Company's General Economic Review and Forecast:*

Counsel submitted that regulators must take the state of the economy into consideration. The question whether the Board had a duty to stimulate the economy had been dealt with by Counsel for Bell, [see section 3(a)(11) above], and by Counsel for the Municipalities, [see section 3(c)(8) below]. In considering the state of the economy in relation to a rate case, Counsel said that not only must general economic conditions be considered, but also the fact that the upswing which had existed for some time had not benefitted everyone.

In its submission of November 28, 1964, the Company had stated as follows:

"...a dynamic national economy and constantly changing capital markets make former standards of appraising the demands of investors, from time to time, no longer applicable..."

Counsel observed that, if there had been constantly changing capital markets, the change had been in the direction of a decline in industrial profits. Such markets also showed marked indications of a slackening of growth in business during which profits should fall off even further. The Company's submission, said Counsel, had gone on to state:

"....the application of the various criteria for the determination of a just and reasonable level of earnings does not permit of precise mathematical calculations in respect of such earnings for extended periods of time, when considered in the light of the rapidly changing economic climate of Canada and, more particularly, of the capital markets. Under foreseeable circumstances, a return of approximately 7 per cent upon the total capital invested in the Company would be just and reasonable."

Counsel commented that the economic climate of Canada appeared to be changing, if not for the worse, at least towards a slackening which would appear to justify lower and not higher rates of return.

The "new-era" thinking of Bell, said Counsel, namely, that there would be unrelenting prosperity from 1965 to 1970, was borne out in the argument of Counsel for Bell and Counsel for Bell had said that Counsel for the Municipalities had repeatedly suggested during the hearings that Canada was at the threshold of a recession. This was not so, said Counsel for the Municipalities; he had asked some innocent questions of Professor Barber and his opinions on events and viewpoints which reflected concern over the state of the economy. If Bell had been shocked out of its complacency, Counsel felt he had done it some service. Present, fast-moving developments, said Counsel, or as Bell had put it, "a rapidly changing economic climate," showed that the realities of the situation were very far from the rosy picture Bell was seeking to paint.

Counsel for Bell had commented on the remarks of Counsel for the Municipalities, as follows:

"I do not think I would like to share his pessimism and be the only discordant voice among a choir of qualified economists who forecast high productivity and a buoyant economy until at least 1970."

Counsel for the Municipalities observed that Bell had, however, effectively concealed from the Board just who were this choir without a discordant voice. Professor Barber had made no such forecast; his reasoning had been based on reports of certain boards or councils. The Economic Council of Canada had made no forecasts or predictions, but had spoken only of targets. There were, said Counsel, no doubt many discordant voices about the state of the economy, yet Bell, without foundation in the evidence, predicated its case upon unremitting, further growth and prosperity until 1970.

Counsel noted that Mr. W. M. Martin, Chairman of the Federal Reserve Board, had warned of disquieting similarities with the fabulous nineteen-twenties on June 1, 1965 and had mentioned: (a) virtually uninterrupted progress for seven years; (b) the concentration of prosperity in fully-developed countries and in their industrial sectors; (c) the large increase in domestic private debt; (d) the continuously growing money supply, bank credit, and turnover of demand deposits; (e) the growth of international indebtedness at a rate as fast as that of domestic debt; (f) the balance-of-payments problem; (g) the problem of international liquidity; (h) the fact that many were now convinced a new economic era had begun, in which business fluctuations were a thing of the past, in which poverty was about to be abolished, and in which perennial economic progress and expansion were assured; and (i) the fact that the disaster of 1929 to 1933 was a consequence of maladjustments in the previous boom. Counsel also quoted a number of other writers, economists and financial analysts whose views were in a similar vein.

The evidence of Professor Barber, said Counsel, as to projected rates of growth, clearly did not constitute a forecast of the probable and related merely to the possible. His evidence on the state of the economy was dependent on assumptions and projections. He admitted that the Hall Report was not a projection or forecast. It was also clear that the Report of the Economic Council of Canada dealt with targets, not forecasts, nor the means of achieving the targets. Professor Barber had said those reports were, in a sense, projections. Professor Albert Breton, in a commentary and summary cited earlier by Counsel, had made that clear. The Economic Council of Canada merely considered a growth rate of 5.5% per annum was necessary to reach its target for 1970 and to provide an additional 1.5 million new jobs; this had been admitted by Professor Barber. In this connection, Counsel noted that Peter Bernstein, in a recent book called

The Price of Prosperity, had demonstrated that most forecasts assumed demand would increase but do not prove it; this, said Counsel, was the case with Bell.

Counsel recalled that, under cross-examination, Professor Barber had said that there was evidence that the tendency for the return to capital to decline with increased amounts of capital per worker appeared to have been roughly offset by improvements in technology, so that the rate of return on capital had not changed markedly over long periods. Professor Barber had also agreed that the following quotation from Professor Paul Samuelson was a fair statement: "instead of observing a fall in the rate of interest or profit, we actually observe their oscillation in the business cycle, but no steady upward or downward trend in this century." In response to a suggestion that he was not taking into account a possible slowdown or recession between now and 1970, in stating that there would be very strong competition for funds in the capital markets, Professor Barber had said this was based on an assumption that there was a reasonable chance that Canada would achieve the objectives of the Economic Council. Professor Barber had also said that, periodically, there would be some recession, even if it showed up only as a slowdown in the rate of growth, and he thought that the risk of recession would probably be greatest by January of 1966. He had further agreed that one possible cause of recessions was excessive capital spending and excessive spending on consumer durables which then led to some slack in the economy.

Counsel said he would like to refer briefly to the following three reports made to the Economic Council of Canada:

- (1) *National Saving at Potential Output to 1970*, by Frank Wildgren; Staff Study No. 10;
- (2) *Business Investment to 1970*, by Derek A. White; Staff Study No. 5; and
- (3) *Special Survey of Longer Range Investment Outlook and Planning in Business*, by B. A. Keys; Staff Study No. 6.

He noted that Mr. Wildgren's working assumption was that Canada's pension plans were unlikely to reduce private saving, (page 31 of the Study), and that Mr. Wildgren had said the following at page 34:

"A net long-term capital inflow, that is \$1.8 billion in 1970, would be appreciably lower in relation to domestic investment, that is \$17.3 billion, and income than has occurred under comparable past conditions of rapidly rising domestic economic activity."

In this connection, Professor Barber had stated that total investment in Canada in 1970 would amount to \$18.8 billion, which would require only 10%, or \$1.8 billion, in capital inflow. Mr. White's study, said Counsel, showed the precarious

nature of the various projections which had been made, as indicated by the following quotations:

"It will be apparent that the projections made are dependent not only upon the validity of the capital stock and output estimates, but also upon the various projections of industry-capital-output ratios. In making the latter, as in projecting deflated investment data, subjective judgments are necessarily involved and little independent information is available to permit evaluation of the validity of such judgments.

"The projections show a significantly higher ratio of investment to G.N.P. than has characterized post-war years as a whole."

Mr. Keys' study said something which, in the opinion of Counsel, was even more significant to the problems mentioned during the hearings, and Counsel quoted the following from page 7 of Mr. Keys' study:

"Financing the proposed capital expenditures is not considered to pose any serious problems. Retained earnings and depreciation are expected to continue to provide the principal source of funds for most of the programs. Those companies expecting to need outside financing virtually all plan to look to borrowing to meet as much of their requirements as possible."

This, said Counsel, was borne out by the evidence of Mr. Groleau, particularly in his Exhibit No. B-60, which showed very much greater investment in bonds than in stocks for the periods covered by it. Mr. Keys had also said at page 7 of his study, and Counsel stressed this point, that:

"Few of the firms interviewed, with the exception of some of the utilities, contemplate financing in the form of additional equity."

This, said Counsel, was authority for the view that Bell, when it seeks financing in the form of additional equity, would not have the competition in the capital markets that it foresees.

In conclusion, Counsel said he asserted that, with slackening growth, Bell's construction programme would be less than is now contemplated.

(7) The Company's Relationships with Northern Electric Company Limited:

Counsel said his submission proposed a return of 7% on Bell's equity capital, or the equivalent earnings per share, and secondly, that there be allowed on transactions between Northern and Bell only cost plus 7% on equity capital. Such a limitation on the return on transactions between Northern and Bell was not only logical and feasible, but it had also been ordered and done in the United States. There was no logical reason why Bell's subscribers should not benefit from such a procedure as United States' subscribers had done. In this connection,

said Counsel, the recent judgment of the California Commission in respect of Pacific Telephone and Telegraph Company, was confirmed by the Supreme Court of California, except with regard to the retroactivity of certain rate reductions, and that Court had stated as follows, at page 39 of its decision:

“...we find nothing in this record which would warrant a change in the commission's holding that Western is entitled to no greater return on its sales to respondent than respondent is entitled to earn on its operations. American should not be permitted, through the corporate instrument of Western, to subject respondent's ratepayers to the burden of providing an unreasonable return.”

This, said Counsel, was all the more feasible and proper here, where Northern was wholly-owned by Bell, than in the United States, where Western Electric and the operating companies in the various States were owned and controlled by the A. T. & T. In Counsel's submission, there was no distinction whatever to be made between the slightly different corporate structural arrangements in the two countries. It had to be remembered, said Counsel, that anything that Northern earned on its transactions with Bell was paid for by Bell's subscribers.

In the United States, said Counsel, the A. T. & T. operating subsidiaries furnished the revenues; they purchased from Western Electric and any profit made by Western came from their ratepayers. To the extent that Western's profit was partly paid to A. T. & T. in the form of dividends, and even to the extent that Western's retained earnings were not paid out, but still benefitted and were available to A. T. & T. shareholders, that lessened the necessity of A. T. & T. securing other revenues from their operating companies. In the same way, Northern Electric's dividends and retained earnings benefitted Bell of Canada. It had been shown that the return on Bell's investment in Northern achieved the rate of return earned by Bell from its subscribers and, to that extent, it obviated the necessity of higher rates from Bell's subscribers. If, said Counsel, A. T. & T. were to change its corporate structure so as to have exactly the same corporate structure as Bell and Northern, he did not think that the United States' commissions and courts would change the presently-prevailing situation under which there was a limitation on the rate of return which Western Electric was permitted to earn on transactions with the operating companies.

Counsel said that the Bell-Northern situation was one in which all Northern's profits were available but were, in effect, only paid out to Bell in the form of dividends, the pay-out ratio being wholly within the control of the directors of Northern. In the 1950 case, his clients had objected to the Northern pay-out ratio, because at that time, as Counsel recalled it, it was something less than 20%. During the course of that case, there was a voluntary undertaking to increase it and it was later increased, but nevertheless it still remained

within the control of the directors of Northern. There was a possibility, even a probability, that at some time in the future the directors of Bell might decide to distribute all the shares of Northern to the shareholders of Bell, a process which Counsel termed "spinning-off". If this happened, the subscribers of Bell would lose completely the benefit of the retained earnings of Northern which resulted from the transactions of Northern with Bell and with other customers.

If, said Counsel, one were to assume for the purposes of argument that Northern earned a profit of 20% on its transactions with Bell, then this would be an encouragement for Northern to be inefficient, whereas if the rate of return on Northern's transactions with Bell were limited to the same rate of return Bell secured from its subscribers, which in Counsel's view should be 7% on equity capital, then there would be the same incentive to efficiency as would obtain in the case of Bell. But if Northern were to be allowed to continue to earn a rate of return higher than that of Bell, then Northern would be acquiring capital from Bell's subscribers, instead of a properly regulated rate of return; this additional capital would, via retained earnings, become part of Northern's equity capital upon which a rate of return must be earned.

Counsel noted that Counsel for Bell had taken a figure of 3.19% as the profit on Northern's total operations and had applied this to Northern's sales to Bell to produce a figure which he stated was less than the dividends paid by Northern to Bell. Counsel for Bell had therefore assumed that this was a satisfactory situation. Counsel for the Municipalities stated that he objected to this being used as a test of the propriety of Northern's earnings, because it begged the question as to whether the profit on sales to Bell and on sales to others was or was not 3.19% and because the use of the test of sales was not a proper test. A company could have a very low percentage on sales and still have a very high return on equity capital, or it could have a very high percentage on sales and a very low return on equity capital.

As to the suggestion that the Board should in some way see to it that the retained earnings of Northern were prudently invested, Counsel saw two objections to this. It would not preclude Bell from distributing its shares in Northern to Bell's shareholders and, in Counsel's opinion, the administrative and practical difficulties for the Board in maintaining a constant surveillance on the prudent investment of Northern would be insuperable. Further, it could be argued with substance that this would constitute an improper interference with the rights of Northern's management; it would be difficult to argue that the Board's experience and background were such as to enable it to substitute itself successfully for the decisions of Northern's management in respect of such investment.

With respect to the question of the cost of securing from Northern a proper breakdown showing the return on Northern's equity capital in its transactions with Bell, Counsel said this had not been shown to be an insuperable task;

Bell had made no proof of the difficulty of doing this or of the cost of doing it. If studies showed the costs were insuperable and very much greater than the possible advantages that would accrue to Bell's subscribers, then a different judgment ought to be made. Counsel, however, observed in this connection that, as in the United States, it would probably require a considerable and lengthy examination, but once the basis on which an accounting should be made was established, the rest would not be difficult. This would not entail the Board making an Order with respect to Northern; it would only involve the Board declaring to Bell that it intended to fix rates on the basis of the showing by Bell of what the rate of return is on Northern's transactions with Bell and that the rate of return on such transactions is to be limited to the same rate of return permitted to Bell.

Counsel said he had not considered his clients' position with respect to a possible distribution of Bell's Northern shares to Bell shareholders, because he assumed Bell was free to do this. He said it was true that the dividends and the return from Northern to Bell were currently greater than the rate of return that Bell was permitted to earn, but this was a comparatively small part of Bell's total capital and operations. However, the possibilities that were inherent in the fact that, up to now, there had been no control on Northern's return from its transactions with Bell, were very great and this directly concerned subscribers. The subscribers might be paying too much through Bell to Northern and only some of that money had been coming back over the years to Bell.

Mr. Van Scoyoc, said Counsel, had suggested a procedure in his Schedule No. 21 as a basis for preparing a rate of return for Bell on a consolidated basis. He had described the intent of this procedure as being an adjustment of both total average capitalization and average equity capitalization so that subscribers would receive credit for the earnings of Northern attributable to Bell's purchases from Northern, and Bell's shareholders would receive credit for the profits of Northern on non-Bell sales. Counsel said he could not see why Bell had not seized this opportunity to earn more for its shareholders. It was true that Mr. Van Scoyoc's figures obviously required certain adjustments, having regard to whatever the facts would be on a proper breakdown of Northern's costs, but there was no reason why this could not be done. Due to time limits, and other considerations, Mr. Van Scoyoc had been unable to secure the full information he required. Mr. Van Scoyoc had merely proposed the means by which a calculation could be made; Counsel said, however, that his clients did not insist on this calculation or on Mr. Van Scoyoc's proposal.

Counsel said he had insisted that a comparison be made between the rate of return on Northern's sales to Bell and Bell's rate of return on its total business, because it was necessary to know what the proper relative costs were in order to prevent cross-subsidization. Bell had been unable to say what

its proper relative costs were on vertical sales and basic services in its own business, and still less the profitability of them. Added to this was the fact that no cost figures, or rates of return, had been furnished with respect to Northern's sales to Bell and Northern's sales to others. It was, said Counsel, obvious that it was possible and probable that a great deal of cross-subsidization took place which was very unfair to Bell's subscribers. Similarly, it was possible that Northern was competing unfairly, in that it might be able to quote prices to non-Bell customers which were less than cost, or which gave less than a fair rate of return, loading such differences between proper costs and proper rates of return on its Bell business. Counsel said he was not saying that this took place, but that it was a potential existing in the situation.

In conclusion, Counsel said the fact that Bell's exhibits showed that prices of Northern to Bell were below those of four other suppliers did not, in any way, show reasonableness, because the rates of profit made by Northern and these four suppliers were not shown and there was no comparison of rates of return.

(8) In re the Board's Responsibilities in Determining a Permissive Level of Earnings for the Company:

As stated above in connection with the summary of evidence on behalf of the Company, the Board raised the question whether it should, in deliberating upon its decisions in these proceedings, consider itself under any responsibility to give decisions that would be beneficial to the economy of the country, or whether its consideration was limited to the welfare of the Company and the Company's subscribers. The views of Counsel for the Company have been summarized above, [see section 3(a)(11)]. The views of Counsel for the Municipalities are now summarized below.

In opening his Argument, Counsel for the Municipalities quoted the concluding portion of the Argument of Counsel for Bell, as follows:

"The overall result of a decision of the Board in this respect must, in my submission, require consideration of the steps necessary to have the Company play its full part in the development of the national economy, a part which I submit is essential to the fulfilment of our country's aims, and a part which likewise must necessarily be essential to the fulfilment of the Company's duties to its subscribers, both present and future, and to its shareholders."

Such a view, said Counsel for the Municipalities, necessarily implied that, not only must the Board fix rates according to established principles, based on reasonable costs including cost of capital, but it must also grant such rates as would develop and stimulate the national economy. This would involve a determination as to the proper stimulants and it would even involve a conflict between the Board's decision and that of the government as to what should be done and

the proper timing of it. In Counsel's opinion, if a company were required to carry out any social, political or economic purpose for the stimulation of the economy, there was no reason why telephone subscribers should be singled out to bear the burden. If government required the Bell Company to stimulate the economy, then it should necessarily provide a subsidy or other measures so that it might do so.

Professor Barber, said Counsel, had stated in evidence:

"...it is not just the profit position of a single firm that is at stake. It is a significant element in the growth and the efficiency of the Canadian economy as a whole that is under consideration."

This statement, said Counsel, implied that, apart from reasonable rates based on costs, the Company should be granted higher than reasonable rates merely because it was a significant element in the growth and efficiency of the Canadian economy. The words used were vague; every public utility was a significant element in the growth of Canada and Counsel assumed that public utilities were efficient. The very fact that Bell had been able to increase its earnings since 1958, without any increase in rates, was proof it had been reasonably efficient.

Counsel said the folly of having such considerations obligatory upon the Board was illustrated by the case where there was a slight slackening of growth or a recession. In that case, Counsel asked, should the Board decide the rate of return from the point of view of whether higher or lower rates would stimulate the economy? There might be considerable controversy among reputable economists as to whether higher profits or lower prices, or other considerations, might be proper ones to be brought to bear on the economy of the day. Counsel concluded that this would not be a proper motive or consideration for a regulatory body.

Professor Barber had later given the following explanation of what he had meant:

"What I meant by a forward-looking assessment was an assessment that considers the position that the Company is going to be in, and all the factors in the circumstances of a rapidly growing economy."

In Counsel's view, the words "forward-looking assessment" were vague generic words. Surely, he said, everyone looks forward, but that did not mean that the Company should have an inordinately high rate of return. If all the factors mentioned were taken into consideration in ratemaking, the Board would have to go into economic planning very heavily. The Board could not consider the actual state of the economy at any time, or the state it might be in, because, for example, it would be folly to raise rates in bad times. The Board, said Counsel, must take the economy as it is; the stimulation of that economy was in the hands of others, particularly those of government.

Professor Barber had also said:

"This is really what I implied, that adequate attention be paid to the rapid growth which seems to be in prospect for the Canadian economy."

"Growth", said Counsel, was a generic term that was thrown at regulatory bodies, but should the Board say that, in order to stimulate growth, something should be added to the rate of return fixed on reasonable costs? In Counsel's view, the answer was no; the stimulation of growth was not a proper function of the Board. In this connection, Counsel quoted from an article by Leon H. Keyserling in *Encounter*, issue of May 19, 1965, which referred to the recurrent tendency of investment to run far ahead of consumption, for which the remedy was to adopt policies designed to raise consumption rather than to give special encouragement to private investment, but stimulation of demand for the ultimate products of industries with an accelerating rate of technological advance and automation could contribute very little to the provision of jobs for a growing labour force, or for those displaced by the new technology and automation. Counsel submitted it was not the function of the Board to consider such problems and to take upon itself the duties of such bodies as the Economic Council of Canada.

The Company's expansion was determined by the demand for telephone service which it was obliged to furnish, but there was no proof before the Board that, if the Company were granted its requested minimum return of 8.5% on equity, that there would be a substantial expansion of other than the basic telephone service it was obliged to provide.

Counsel for Bell, said Counsel for the Municipalities, had used the following words in his Argument:

"...It is essential that the Company maintain a sound financial position."

"...return to its shareholders which will enable it to raise the funds it needs in the market at a reasonable price."

"...All three have a long-run interest in seeing that the Company maintains a successful record of growth and efficiency."

These, said Counsel for the Municipalities, were fairly vague words; the Company had maintained a sound financial position in the past, its return had enabled it to obtain funds, and it had maintained a successful record of growth and efficiency.

With respect to the legal authorities quoted by Counsel for Bell in support of his position, Counsel for the Municipalities did not think they substantiated that position. The Supreme Court case, (38 C.R.C. 27, at page 37), involved a specific determination as to whether rates were in accordance with the provisions

of the Board's Order. At page 37, the Court stated the effect of the enactment of 1925, as follows:

"The enactment of 1925 begins by conferring on the Board powers of the most sweeping character 'to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require,' notwithstanding the provisions of s. 3 of the Railway Act,..."

Counsel for the Municipalities said he emphasized the word "powers", but the mere fact that the Board had such powers did not mean that, in exercising such powers, it could take any consideration into its deliberations, particularly those of economic planning or stimulation of the economy. The Board could not, in Counsel's submission, proceed to exercise its powers upon an improper consideration.

As to the citation from the Board's Judgment of October 10, 1958, (78 C.R.T.C. 1, at page 8), Counsel noted that this was to be found in the section of the Judgment entitled "3. SUMMARY OF EVIDENCE AND SUBMISSIONS", and under the heading "(i) Evidence in support of the Application". Counsel said he would assume on the face of it that what followed thereafter was a summary of the arguments of the Company, and was not in any way a judgment or declaration of the Board. Although Counsel for Bell had stated that he had checked the record and that he had not made the statement, and had asserted it was a statement of the Board, Counsel for the Municipalities nevertheless thought it was possible that it was the Board's general assessment of what the Company's position was, or even a statement made by the Company or one of its witnesses. There was nothing to indicate that it was the judgment of the Board, but if it were assumed that the words were used by the Board as indicating its own thinking, the words merely stated that the Board must consider the overall result of granting or denying any company's request for financial relief. But, in considering the overall results, submitted Counsel, it was no part of the function of the Board to engage in economic planning or the stimulation of the economy.

Counsel noted that Counsel for Bell had said:

"The Board is well aware of the studies of the Economic Council and like bodies concerning the steps that must be taken to achieve a thriving economy in Canada. The importance of the part to be played by such an important element as Bell cannot be ignored in such an assessment."

Surely, said Counsel for the Municipalities, it could not be inferred from that that the Board should assert the functions of the Economic Council and like bodies. Counsel for Bell had also said:

"It is no longer solely a question of the profit position of the Company, but of the forward looking steps that management must take and disclose to

this Board if such a significant element as the Company in the growth and efficiency of the Canadian economy is not to fail in its duties to the nation.”

Counsel for the Municipalities suggested that these were vague and meaningless statements. He said that Counsel for Bell had admitted that the Company was urging the Board to accept an obligation to fix rates to promote the growth and efficiency of the Canadian economy, and Counsel for Bell had then gone on to say:

“Obviously, the functions of the Board do not include those relating to economic planning. It is equally true that the Board in exercising its jurisdiction to fix just and reasonable rates must consider all the effects of its decision.”

Counsel for the Municipalities agreed that the Board had a right to look at the economy, but as it was, and the words “the effects of its decisions” could not be construed to mean that the Board had the duty of stimulating or affecting the Canadian economy through ratemaking.

In conclusion, Counsel for the Municipalities said he had examined two texts on public utility economics and regulation, (*Public Utility Economics*, (1964), by Garfield and Lovejoy, and *Ruling Principles of Utility Regulation and Rate of Return, Supplement A*, by Nicholls and Welch), and nowhere had he seen any suggestion that it was part of the duty of a regulatory body to stimulate the economy or promote growth. He also quoted from *Principles of Public Utility Rates*, (1961), by Bonbright, passages to the effect that the services of public utilities could best be offered for sale on the general principle of service at cost rather than at prices designed to accomplish some specific objective deemed to be in the public welfare and, further, that the reshaping of the national economy was not the function of a regulatory body.

(9) *Income Tax and Capital Cost Allowances:*

Counsel observed that, for some years up to 1958, the Company had taken advantage of capital cost allowances, thereby deducting a greater amount from income tax than if they had observed straight-line depreciation for tax purposes. The proceeds or difference between the two methods was placed in a deferred-tax credit account instead of allowing it to flow through to income. This had been attacked by the Municipalities in the 1958 rate case, the Municipalities arguing that the proceeds should flow through to income and thus obviate the necessity for a rate increase. On appeal from the Board's decision to the Governor-General in Council, the appeal was upheld and in effect this permitted the proceeds to flow through to income. The Company, however, had frustrated this by returning to straight-line depreciation for tax purposes; it had refused to take the extra capital cost allowances available to it and had then applied to the

Board for a rate increase. This application had been opposed by the Municipalities who had argued that a public utility ought to attempt to save as much income tax as possible. The Board had held that the Company need not take the capital cost allowances and, on appeal to the Governor-General in Council, the Board's decision had been upheld.

Thus, said Counsel, Bell had not been claiming capital cost allowances since 1958, allowances which would have given the Company tax-free capital of probably some \$12 million annually. Counsel said the Municipalities now felt that the Company should now revert to the claiming of full capital cost allowances, placing the proceeds in a deferred-tax credit account as it had done in the past. The Municipalities would have been better off with the method of flow-through to income which had first been approved by the Governor-General in Council, but they were worse off in the case where, at present, the Company was not claiming such capital cost allowances. The only available alternative was for the Company to claim the available capital cost allowances, placing the proceeds in a deferred-tax credit account. This would provide the Company with a considerable amount of tax-free capital and subscribers would benefit from this because no rate of return was earned on such tax-free capital.

Counsel concluded by stating that, if an appeal to the Governor-General in Council were necessary to secure approval of the deferred-credit method, he would advise his clients, if consulted, to join in such appeal or, at least, not to resist it.

(10) The Company's Capital Structure :

Counsel submitted with respect to the Company's debt ratio that it should be raised to a minimum of 50% to effect savings in capital costs, because debt capital would cost the subscriber so much less. If the Company's submission were accepted, its equity capital would require a return of 8.5% after taxes, or 17% before taxes, compared with the Company's embedded cost of debt of 4.8%, or compared with the 14% return before taxes which would be the cost if the Municipalities suggested rate of return were adopted.

Counsel said the Municipalities considered that it was becoming increasingly necessary to reduce the relative cost of capital of private, investor-owned public utilities, like Bell, and to bring their cost of capital more in line with that of government-owned public utilities which were financed wholly by bonds. He questioned whether the subscriber could any longer afford the significantly higher costs of financing by share capital rather than bonds, particularly where the share capital was increased not through underwritings of offers to the market, but by the issue of rights. Share capital was much more expensive than bond capital and it was no answer to say that income tax should not be considered as someone had to pay it. It ought not to be overlooked that the method of payment

of taxes through Bell was unfair and regressive and completely unlike ordinary income tax which was based on ability to pay. The Company had no other proposal to solve this problem of the debt ratio, other than to suggest raising the return on equity to 8.5%, or 17% before income tax, thus aggravating the problem.

It was, said Counsel, easy to show the enormous savings to Bell's subscribers, if the Company were to replace a great part of its equity capital by debt capital. The objections to a debt ratio higher than 40% were based on tradition and rather tenuous grounds. The Company had objected that, to do so, might result in lower ratings for its bonds but no proof was made that this might or would result. Even if Bell's bonds were to drop down to the next rating, which Counsel did not think would happen, the current difference in yields was only 0.07%, as testified to by Mr. Van Scoyoc and admitted by Mr. Groleau, although Bell had argued that such difference had been greater in the past.

If Bell increased its debt ratio to 50%, as the Municipalities suggested, it would also be entitled to a higher rate of return and the coverage of debt interest would still be substantial. The necessity of a liberal coverage of debt interest was groundless in the case of a utility. The usual measure was the extent to which net earnings covered bond interest, but ample depreciation funds were also available. Furthermore, said Counsel, since Bell had always secured rates to cover what the Board considered was a reasonable return on common equity, this in itself ensured that bond interest would always be adequately covered and that there was no danger it would not be.

Mr. Van Scoyoc's testimony on the debt ratio had been attacked mainly on the ground that one exhibit, which was meant to reflect coverage of bond interest, also covered preferred dividends of certain companies, but the actual coverage of bond interest had been accurately shown for 1963 on Schedule 8. Bell's coverage of 3.1 times bond interest was perfectly adequate and maintained its AA rating as in the past. Mr. Van Scoyoc's Schedule 3 was not attacked, so far as the debt ratios of other companies were concerned, and such debt ratios, with the exception of A. T. & T. and its subsidiaries, were substantially above that of Bell of Canada. The debt interest coverage of the A. T. & T., of 5.87 in 1963, was unnecessarily large. British Columbia Telephone Company had operated in 1963 with a much larger debt ratio than Bell and with an interest coverage of only 2.49, but no proof had been made that it had suffered because of this. In 1963, the A. T. & T. companies had a debt ratio of 27% and an interest coverage of 6.7, whereas the non-A. T. & T. companies had a debt ratio of 46%.

The Company, said Counsel, had not called any proof by an outside investment dealer that raising the debt ratio to about 50% would not be desirable. In this connection, Counsel quoted the following from *Security Analysis*, (4th. Edition, 1961), by Graham, Dodd, Cottle and Tatham:

"It is clear that within the limits of capital-structure variation actually shown by the electric utilities, this factor of debt had so minor an effect upon the earnings multipliers as to be completely submerged by other determinants...

"These figures would indicate that neither the capital structures nor the payout ratio played any part at all in setting the price-earnings ratios for the two subgroups." (Pages 544-5).

Counsel concluded by suggesting that, with regard to the debt ratio, the Board might well consult with investment dealers to secure their unbiased opinion as to whether Bell would suffer by increasing the debt ratio to 50%, particularly if it were able to secure a greater rate of return because of the alleged increase in risk.

(11) Regulation and the Use of a Public Utility Ombudsman :

Counsel said he had always felt that some provision ought to be made for some part of the cost of contesting a rate case to be borne by the Company as part of its cost. By Section 62 of the Railway Act, the Board had power over costs, but if the Board felt it lacked such power, Counsel thought the Board should suggest an amendment to the Act.

There were many difficulties involved in contesting rate cases. Although the Board issued notices of such cases in sufficient time, Counsel were often not appointed by respondents until very late in the day and many cases were not contested. Counsel said it was true that the Board was charged with the duty of deciding the issues between the applicant company and the public on the basis of public interest, but he thought it was very difficult for the Board to act both as judge and as an arbitrator of the company in the public interest, unless all aspects of the case, including contrary evidence, were set forth before it.

As Counsel saw it, there were two solutions to the problem. One was to have staff witnesses, as in the United States, who would prepare what they considered to be the public's case, submitting themselves to cross-examination in the same way that witnesses for the Company did, and to have counsel of the Board entrusted with the duty of fully cross-examining all witnesses. This system, however, would place the Board and the staff witnesses in an anomalous position. The staff witnesses would be part of the Board, yet for the purposes of the case they would be considered separate and subject to cross-examination; the Board would be faced with the onerous duty of deciding between witnesses on its own staff and witnesses for the applicant.

The other, and better, solution to the problem, in Counsel's opinion, was for the Board to recommend to the Government of Canada that a new department be established, to be called the Department of Public Utility Ombudsman, whose duty it would be to enter all rate cases, secure and prepare evidence, cross-

examine, and argue the case on behalf of the public. The department would be a permanent one with a complete staff of experts, accountants and economists, and it would have the power to call outside witnesses to act for the public.

Counsel concluded his submissions on this matter by referring the Board to a number of articles dealing with the problems of regulation.

(12) The Permissive Level of the Company's Earnings :

Counsel observed that there was a great deal of difference between the Company's submission of November 28, 1964 on the rate of return and the new demands it had made in argument. In its submission, the Company had merely said:

"Under foreseeable circumstances, a return of approximately 7 per cent upon the total capital invested in the Company would be just and reasonable."

This 7 per cent on total capital would be equivalent to 8.5% on equity in 1964, but in evidence Mr. Groleau had proposed more than 9% and had said:

"The Company's earnings on common equity should be more nearly comparable to the level attained by those companies who maintained the integrity of their shareholders investment... these earned an average of 11.7 per cent on common equity."

Mr. Groleau had also favoured, not merely a permissive rate of return, but a range with 8.5% on equity as its lower limit and Counsel for Bell, in concluding his Argument, had suggested the Board should find: (a) that the return on the total capital of the Company, earned in the year 1964, was not in excess of a just and reasonable level; and (b) that such return for the year 1964 was not at the upper limit of the permissible range. In other words, said Counsel for the Municipalities, a floor had been proposed, but no ceiling.

Counsel pointed out that it was the effective return to the investor, and not the apparent return, that was being dealt with in the present proceedings. The apparent return was the return on all capital, but it should not be overlooked that the actual return to the investor was far greater than that. The investor had not only the benefit of the retained earnings of Northern Electric, which were available to him and could be distributed to him, but he also had the tax-free capital gains from rights, which Counsel suggested was equivalent to another 2%. Thus, in Counsel's view, the real issue in the case was whether investors were going to benefit by 9%, (7% return on equity, plus the value of rights at 2%), or by 10.5%, (8.5% on equity, plus the value of rights at 2%).

The Company's suggestion of a floor without a ceiling was supported, as Counsel understood it, by one precedent only – a decision of the Federal Com-

munications Commission of the United States. In that case, said Counsel, the Commission had negotiated a reduction in long-distance rates with the A. T. & T., the effect of which would be to provide an overall rate of return of 7%, in lieu of the return of 7.5% previously earned. The Commission, naturally, did not, in Counsel's view, make the reduced rate of return the upper limit since the reductions were expected and intended to result in greater earnings and the previous return of 7.5% had not been interfered with. The Commission, further, was not fixing a rate of return and there was therefore no authority for what the Company had proposed to the Board. In this connection, Counsel noted that the Federal Communications Commission had never had a formal rate case on the A. T. & T. to decide a permissive rate of earnings. While Counsel for Bell had submitted that there must at least be a finding by the Board with respect to the Company's submission that its current earnings were not in excess of a just and reasonable level, Counsel for the Municipalities argued that this was not in any way necessary. The Board could and should fix a permissive level of earnings, as in the past, but in the form of a percentage return on equity or total capital, or as earnings per share.

Counsel said he did not agree with the interpretation Counsel for Bell had placed upon the citation from Bonbright's *Principles of Public Utility Rates*, [see section 3(a)(13) above, page 119]; on the contrary, it was clear from the context of this citation that it supported the view that the Board must set one fair rate of return, with no variations or a range, and that the Board might, later on, allow minor variations above and below that single figure. In the United States, said Counsel, a rate of return had to be fixed which must not be lower than would be confiscatory and not higher than would be unreasonable. If the company then earned less or more than this return, the commission would either permit this to continue, or the company would make application for a higher rate, or the commission would set the matter down for hearing to fix a new rate of return. Counsel said that, while he had not examined all the judgments of United States' commissions, the only judgments he had seen in which two rates of return had been set were those in which the two rates of return had been calculated on two different rate bases, but such rates did not constitute a range.

Counsel summarized his objections to the Board finding that the Company's return on capital in 1964 was not in excess of a just and reasonable level and was not at the upper limit of the permissible range, as follows. By fixing a floor, it would establish that anything above it would be just and reasonable, since there would be no limit. It would lead investors to feel they had a right to count on the Board to grant such rates as would not only support the floor level of earnings, but also any higher earnings that might be realized by the Company. It would also lead investors to believe that the Board would not intervene when the level of 8.5% return on equity had been reached. The fixing of a

floor without a ceiling would give rise to tremendous confusion and speculation, because it would not be understood by the public. If the Board later intervened and fixed a rate of return less than that prevailing in the future, even if such rate were grossly liberal, the Company would argue that this would drastically lower the market price and impair its power to attract capital. No commission or Board had, so far as Counsel knew, fixed a rate of return in such a manner, a manner which would amount to the Board losing control of the earnings of a regulated company. The resulting uncertainty would produce such fluctuations and volatility that the stock of the Company would lose the characteristics of a stable, income stock. It would encourage government intervention and bolster those who favoured government ownership. It would most probably result in an application for increased rates before long and the Board would have difficulty in refusing such application after setting such an unlimited rate of return. Although the Company had said it was not its intention to "forthwith" use such a finding to achieve a higher level of rates, it would be free to do this sooner or later, when it found it needed higher rates to justify higher earnings. The setting of a floor without a ceiling was not just and reasonable, because it was not a determination of what actual return was reasonable at the time in relation to an existing or proposed tariff. Such a finding would permit the earning of a future return that might not be just and reasonable.

As to the question of "a zone of reasonableness", Counsel referred to Garfield and Lovejoy's *Public Utility Economics*, page 118, which stated that this concept was clearly spelled out in a Wisconsin telephone rate case, but Counsel noted that a specific rate of return was fixed within a zone of reasonableness, with the possibility that minor variations upwards or downwards might later be allowed without intervention by the commission. Thus, Counsel said he assumed the Board would, as in the past, fix a specific permissive rate of return.

Counsel said the burden of proof was on the Company to prove the necessity for any change in the present Order and the extent of such change, but it had not proved what rate of return was necessary. It had proved only what rate of return it wanted, but had made no proof whatever of its cost of capital. It relied solely on a comparability of earnings with electric utilities and other companies which Counsel said he would prove were not comparable.

In Counsel's view, regulation had to be based on costs of service, including costs of capital. In competitive industry, products were sold at prices equal to marginal cost and the competitive price was therefore very much higher than average cost; public utilities, on the other hand, based their prices on average cost. In the past, said Counsel, the Bell Company had limited and almost strangled its own growth by insisting on the return being calculated at so many dollars and cents per share, so that as equity grew, the return on equity fell. Thus, a change to a percentage on equity, even at the 7% level proposed by the Municipalities,

would allow greater growth. The Company had also limited its sales of shares to employees and shareholders at prices far below the market. In this connection, Counsel noted that Bell, in its Annual Report, did not include its return on equity capital. In addition, the Company did not advise investors of what the rights to purchase its stock were worth. Taking rights into consideration, Counsel said that Bell was really allowing investors a 9% return, only 7% of which appeared as earnings. This, on the face of it, restricted the growth of earnings and the growth of equity, although investors benefitted from the higher result.

In Counsel's opinion, high target rates of return were common to all industries and had to be carefully scrutinized. If they were too great, then consumers were forced to contribute capital and not merely a return on capital. There was also reason to believe that inflation was, in fact, caused by having target rates of return which were higher than sound economics would dictate. As to the Bell Company's rate of return, it was Counsel's submission that the Board should fix it as a percentage of common equity, or as earnings per share, and not as a percentage of all invested capital. This would avoid leverage. If a percentage on total capital were used, lower interest rates would benefit the shareholders, whereas they should benefit the subscribers who always had to pay more when interest rates rose. Since a much greater cost was involved in equity than was involved in debt, because of tax considerations, this fact ought to be taken into consideration in fixing a rate of return for the Company. Such a rate of return should be one that is necessary to attract capital, but not a higher rate that would attract capital more easily but at a higher cost than reasonable or necessary.

Counsel said the Municipalities were greatly concerned that, if the Company secured a higher rate of return, and if it were unable under the present tariff to earn that return, it would come to the Board and ask for such higher rates as were necessary to earn that return. Having fixed that rate of return, the Board would then find it very difficult to refuse the Company rates which would earn it. Moreover, the Municipalities were not at all satisfied with the Company's assurances concerning that potential increase in rates. Counsel for Bell had stated that the Company's objectives in respect of a permissive level of earnings had not been, and were not now, related to any potential increase in the general level of its rates, but the mere fact that it was not an objective was in no way a reassurance. The Company had also based its intention to achieve such objective without any increase in the general level of rates on the assumption of an annual growth in G.N.P. of 5.5%, but Counsel for the Municipalities said that, if such assumptions were not correct, then the Company would feel itself free to secure a rate increase.

The great danger of a rate of return based on a percentage, said Counsel, was the great power of the compounding process in increasing earnings until

the natural limitations of the industry stops such growth. When the utility succeeded, after one rate case and before another, in increasing its earnings beyond the previously permitted rate of return, it then demanded the new, actual earnings as a new floor for a new rate of return. It did so under the pretext that investors would balk since they have been led to expect that the regulatory commission would continually raise the rate of return. Since investors want a higher and higher profit, even if the cost of capital as shown by the market place is declining, the only way to regulate was to fix a rate of return based on the cost of capital, as shown by the market, and to let the market establish the capitalization rate and price it places on what the utility might offer.

Counsel said the tests which had been considered in the past by ratemakers were as follows:

(a) Comparable earnings on common equity, (i.e. on book value), such comparable earnings being those of companies with similar risks and uncertainties;

(b) The ratio of concurrent earnings to net proceeds from stock issues via underwritings; (this was not relevant to Bell since it has never sold via underwritings);

(c) The ratio of concurrent earnings to net proceeds from rights' issues to shareholders, but this would show only the maximum cost of capital, as the price is set at a discount below market;

(d) The earnings-price ratio, (i.e. the ratio of concurrent earnings to market price), adjusted for financing costs, market pressures and a safety factor;

(e) The returns allowed by other commissions, adjusted for differences in risk, differences in location, etc.; and

(f) The return necessary to attract capital.

With respect to the matter of companies having similar risks, Counsel said the Company had failed to prove that its comparisons fell within the criteria of the *Bluefield* case, namely, a return equal to that being made at the same time in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties and, secondly, that it had no constitutional right to profits such as are realized in highly profitable enterprises or speculative ventures. The comparisons made by the Company were completely unacceptable for ratemaking purposes because: (a) they compared averages of many companies with one company, Bell, and did not show the variations in earnings of these other companies or whether companies were eliminated from, or added to, those included in the average; (b) they did not compare the different characteristics, risks and uncertainties; (c) they did not

show whether the returns were on a consolidated basis or not; (d) they did not show the differences in capital structure or the effects of their location in different parts of the country; (e) they did not show whether liberalized depreciation methods were used or not; (f) they did not show earnings on a comparable basis, different accounting bases, etc., not being shown; (g) they did not show dividend and payout ratios; (h) the actual earnings cited were not shown to be just and reasonable; (i) they did not show the extent to which actual earnings were in excess of those fixed by the regulatory commissions concerned, nor was the regulatory climate described for each of them; (j) actual earnings do not show what companies should be allowed to earn; (k) no proof was made as to whether the actual earnings cited were not from highly profitable enterprises or speculative ventures; (l) averages of actual earnings are improper criteria and details of each company were not given; (m) when other utilities were compared with Bell, it was not shown whether the rate base was original cost, reproduction cost, or fair value; (n) no proof was made that the return was higher or lower than necessary to attract capital; (o) there were special reasons why telephone utilities were not comparable with electric utilities; and (p) United States' and Canadian companies were not comparable as to earnings, because they were in different parts of the continent and because, historically, United States' earnings have been higher. For all these reasons, said Counsel, it was obvious that the comparisons made by Dr. Morton and Mr. Groleau were unacceptable.

Counsel said that, even assuming the comparability was a factor in the case of the evidence of Dr. Morton, Dr. Morton should have made a number of other adjustments to his figures. Dr. Morton had taken the earnings of 10.74% of the F.P.C. Electrics and had deducted 20% to reach 8.5% for the Company; he had arrived at the same conclusion in a different way when he had taken the yield of 7.68%, less 20%, and had divided it into the payout ratio of 71.5% for the F.P.C. Electrics. Dr. Morton, however, should have made the other, following adjustments. He should have deducted at least another 7% because Bell's debt ratio was 40%, whereas that of the electric utilities was about 50.2%. In this connection, Counsel noted that, in the case of the *Washington Public Service Commission v. Washington Water Power Company*, (33 Public Utilities Reports, 3rd. Series, page 468, (1960)), Dr. Morton had increased the percentage to reflect the Company's higher debt ratio. The same judgment said that Dr. Morton :

"...does not use the higher payout ratio of the respondent. However, he uses the average payout ratio of the industry as a whole. The record shows through the testimony of Mr. Kosh that dividend payout has an important effect on the cost of equity. If Dr. Morton is to reflect respondent's capital structure, it would seem that the same logic would justify the reflection of respondent's dividend payout ratio. This necessary and obvious adjustment

to Dr. Morton's exhibit is contained in Exhibit 14... uses respondent's own average historical payout ratio."

Counsel commented that Dr. Morton had failed to make a similar adjustment in the present proceedings; since the average payout ratio of the Electrics used by Dr. Morton was 7.15%, a figure lower than that for Bell, such an adjustment would greatly lower the percentage advocated by Dr. Morton. No adjustment had been made for the historical fact that Canadian returns were less than United States' returns and no adjustment had been made for the benefit of rights.

Counsel said he knew of no case in the United States, particularly a recent case, which had approved the comparability of telephone companies and electric utilities, or which had approved comparability with unregulated companies. It was noteworthy that Bell, in its Argument, had not cited a single case in support of such tests of comparability, whereas Counsel said he could cite many cases which completely rejected such comparability.

In support of his Argument, Counsel cited the following cases :

(a) *Pennsylvania Public Utilities Commission v. York Telephone & Telegraph Co.*, (1963), 53 P.U.R., 3rd., page 146, in which Counsel said that Dr. Morton had been the principal witness for the company and in which the Commission had completely rejected the comparability reference;

(b) *Washington Public Service Commission v. Washington Water Power Co.*, (1960), 33 P.U.R., 3rd., page 468;

(c) *Supreme Court of California in re Pacific Telephone & Telegraph Co.*, which affirmed the decision of the California Commission, except as to retroactivity of refunds;

(d) *United Gas Pipeline Co., v. Louisiana Public Service Commission*, (Supreme Court of Louisiana), 49 P.U.R., 3rd., page 349;

(e) *Re Diamond State Telephone Co.*, (a case of the Delaware Commission) 21 P.U.R., 3rd., page 417, in which Dr. Morton was a witness;

(f) *Re General Telephone & Telegraph*, (a case of the Washington Commission), (1959), 30 P.U.R., 3rd., page 145;

(g) *Re New England Telephone & Telegraph Co.*, (a case of the Massachusetts Commission), (1958), 22 P.U.R., 3rd., page 470;

(h) *Federal Power Commission v. Tennessee Gas Transmission Co.*, (1960), 33 P.U.R., 3rd., page 270, at page 275;

(i) *Public Service Commission of the District of Columbia v. Chesapeake & Potomac Telephone Co.*, (1964), Formal Case No. 494, not yet reported;

(j) *Louisiana Public Service Commission v. United Gas Pipeline Co.*, (1960), 34 P.U.R., 3rd., page 78;

(k) *Maryland Public Service Commission in re Potomac Telephone Co.*, (1964), not yet reported; and

(l) *Washington Public Service Commission v. Pacific Power & Light Co.*, (1960), 33 P.U.R., 3rd., page 433, a case in which Dr. John K. Langum, a witness for Bell in the 1958 rate case, was the Company's witness.

Counsel also referred to an article by David A. Kosh, a public utility consultant at Washington, D.C., in *Public Utilities Fortnightly*, September 26, 1963, Vol. 72, No. 7, entitled "Recent Trends in the Cost of Capital." Counsel said this article was a complete justification of the application of the earnings-price ratio theory to the rate of return; he also mentioned that Mr. Kosh was the staff witness in the last-named case in the preceding paragraph above.

In Counsel's opinion, even if it could be said that regulation should emulate the effects of competition, it was incumbent on the Company to prove that free, untrammelled competition existed in unregulated enterprises cited by it, and that such enterprises were comparable to the Company in terms of risks, uncertainties and other characteristics. This had not been shown by the Company and, in Counsel's view, the Board had to assume there was very little competition in Canada. In support of this view, Counsel cited an article by R. M. Fowler, entitled "The Future of Competition in Canada", at page 63 of *The Canadian Economy: Selected Readings*, edited by J. J. Deutsch.

Many of the comparisons adduced by the Company, said Counsel, were for long periods, from 1947 or 1949 to 1963. As a result, the averages were higher because the earnings of non-utilities were very much greater in the past than in recent years. As an example, Mr. Groleau's Exhibit No. B-63, related to the period 1949-1958, and showed average earnings of about 15% for the other companies, compared with 6.6% for Bell. Thus, at the time of the 1958 rate case, the Board had taken the lower basis in respect of Bell. Between 1959 and 1963, however, the rate of return for non-utilities had dropped from about 15% to about 10%, whereas the rate of return for Bell had risen to 7%. Thus, in Counsel's view, it was reasonable to expect that the earnings of non-utilities, with no regulation to hold their earnings up, would fall more rapidly than the earnings of Bell.

With respect to the Company's Exhibit No. B-95, showing that the return on all invested capital for 12 United States' telephone companies for the period 1960 to 1964 was between 7.0% and 7.2%, Counsel noted it did not give the return on equity capital. He observed that, in Canada, the return should be lower, because of the historical difference in earnings and because of the dividend tax credit. The earnings set out in this exhibit were actual earnings and there was no indication of the rates of return fixed by the regulatory commissions concerned, nor was there any indication of the kind of rate base used by such commissions.

Counsel noted that Counsel for Bell had stated that the Company had to be afforded the opportunity to earn at a level comparable to that of the industries with which it competed, otherwise it would lose its financial strength and ability to serve the public. The past history and the present position of the Company, however, completely disproved this thesis. The earnings-price ratios of Bell, as shown in Exhibit No. CM-2, Schedule 9, had hardly moved much over 5% during the past 12 years and had averaged 5.3%. If Bell's argument were valid, Counsel asked, then why did the earnings-price ratio not move much higher?

As to the argument that the telephone companies were much more risky than the electric utilities, Counsel said he was unable to understand this because the electric utilities were able to earn a higher rate of return. In the 1958 rate case, Dr. Langum, the American economist called by Bell, had testified that five leading Canadian electric utilities had had an average rate of return on common equity in 1956 of 10.69%. If the Board had not seen fit to use such comparable earnings in 1958, said Counsel, then it should not do so today.

With respect to the question of similarities of risk and capital structure, Counsel for Bell had argued that risks tended to be equalized by differences in capital structures and that, since capital structures differed, Bell should earn the same as industrials. There was, however, no proof of what these structures were, and how they differed from one industry to another; there was no proof of how risks were to be adjusted in consequence of such alleged differences; and there was no authority in texts or commission judgments for making such adjustments. Dr. Morton had tried to raise this argument in the *Pennsylvania Commission case in re York Telephone & Telegraph Company*, 53 P.U.R., 3rd., page 146, at page 169, and that Commission, after citing the *Bluefield* case, had said:

"In our opinion overall risks and uncertainties in industrial enterprises do not correspond to those found in utilities generally, or respondent in particular, and Morton agrees. He contends, however, that differentials in risk are accounted for in the differences in capital structure and dividend payout ratios, but he admits that neither ratio measures risk. He concedes also that the same common equity ratio does not have the same significance, cost-wise, in a utility that it does in an industrial enterprise.

"Money market statistics reflect the competition for capital, and therefore the cost of equity capital based on market evidence not only reflects the appraisal by investors of the relative risks and uncertainties of telephone companies compared with other enterprises, but also manifests the normal risks of financing. When an investor buys a telephone stock, he makes his choice in the light of alternative investment opportunities, and the terms under which he buys the security reflect his views as to the relative certainty or uncertainty of telephone utility investment. It is not necessary, there-

fore, to look outside the telephone industry to determine a reasonable cost for common equity money for respondent. We have consistently held that wholly industrial concerns are so different among themselves, and as a class so different from utilities, as to make their use in the determination of cost of capital for a utility invalid."

Counsel commented that there was therefore no basis in logic or in fact for the proposition that Bell's earnings should be the same as those of non-utilities, because capital structures were different and equated risks.

Counsel said the authorities supported his view that it was not proper to compare the earnings of a telephone company with those of electric utilities or unregulated industries. There was a reference to the Delaware Commission judgment in *Ruling Principles of Utility Regulation and Rate of Return, Supplement A*, by Nicholls and Welch, at page 231, and the following was stated at page 235:

"The Commission, in this case, refused to accept as evidence of equity capital cost data assembled by a company witness, based on comparisons with earnings of other utilities. The opinion stated: 'thus, Mr. Taylor's "method" consists, in effect, of the Bell claim that General should earn what a group of 23 other nontelephone utilities did earn, regardless of whether their earnings were above, below, or at a bare level. So stated the "method" collapses.'"

Bonbright's *Principles of Public Utility Rates* stated at page 259, in respect of comparisons of earnings:

"But this kind of a comparison, while suggestive, is not conclusive in the absence of adequate reasons to assume that the realized earnings of the other companies fall within the range of a fair rate of return."

Any comparability of electric utilities and other companies, said Counsel, was denied in the following cases: the Louisiana Supreme Court judgment, 39 P.U.R., 3rd., page 358; the United Gas Pipeline case, 34 P.U.R., 3rd., page 78; the Pacific Power & Light case, 33 P.U.R., 3rd., page 433; the Diamond State Telephone case, 21 P.U.R., 3rd., page 417; the New England Telephone & Telegraph case, 22 P.U.R., 3rd., page 470; the General Telephone case, 30 P.U.R., 3rd., page 145; and the York Telephone case, 53 P.U.R., 3rd., page 146. Counsel stated that, in the New England Telephone case, the Commission had said that, while it was true that electric utilities and telephone utilities competed in the capital markets, it was clear to the Commission that they did not do so on the same basis. The Commission had further stated that it thought data on electric utilities cast little light on the cost of equity capital to the New England company.

Counsel said that the ideal test of the cost of capital, the ratio of concurrent earnings to net proceeds from stock issues via underwritings, was not available because the Company issued equity capital only through sales to shareholders at prices far below market. The next test, (the third test, after comparable-earnings and concurrent-earnings-to-net-proceeds-via-underwritings), was the ratio of concurrent earnings to net proceeds from rights' issues to shareholders, but this would indicate only the maximum cost of capital which would be much higher than if the shares had been sold closer to market value. In March 1964, the Company had sold its shares via rights at \$38 per share, the concurrent earnings for 1963 being \$2.58 per share, thus producing a ratio of 6.7%. If 0.26% were to be added for financing costs, this ratio would be raised to 6.9%. At the time of the issue, the market price was \$50.875, so the issue price was only 74.6% of the market price. If the issue price had been fixed at \$41.80, or 10% higher, the cost of capital would have been the lesser percentage of 6.18%, which with the addition of 0.26% for financing costs would be raised to 6.44%. At a discount of 10% from market, or at a price of \$45, the cost of capital would have been 5.99% including financing costs. The foregoing, said Counsel, had been the uncontested testimony of Mr. Van Scoyoc with regard to such costs.

Counsel noted that the Municipalities had produced two exhibits on the question of the relationship between actual issue prices and the latest current earnings of the Company. On one basis, the average ratio for the period 1955-1964 was 6.7%, and on another basis the average was 6.65%; the average of all these tests was 6.71% which, with the addition of 0.26% for financing costs, produced a figure of 6.96%. On a slightly different basis, using the ratio of last available per-share earnings to issue price, Mr. Van Scoyoc had arrived at a final figure of 6.74%. Counsel observed in this connection that, as he had stated in his testimony, Mr. Van Scoyoc would have been happier if he could have used an issue of stock via underwriters, but Counsel noted that, even if an earnings-to-issue-price ratio was used, it was found that the cost of obtaining equity capital was still below the 7% return on equity proposed by the Municipalities. Counsel for Bell, however, had quoted Mr. Van Scoyoc in Argument as saying that the net proceeds bore no significance in determining the cost rate of equity capital, but had failed to mention that Mr. Van Scoyoc had added that it would indicate a ceiling cost for equity capital.

With respect to the question of market pressure, Counsel emphasized that Mr. Van Scoyoc had said that no allowance was necessary for this factor in the case of rights' issues, because it was automatically reflected in the earnings-to-net-proceeds ratio.

The fourth test of the cost of capital, said Counsel, was that of earnings-price ratios, the test which had been proposed by Mr. Van Scoyoc. Mr. Van

Scoyoc had produced Exhibit No. CM-2, Schedule 9, showing the average annual earnings-price ratios for twelve telephone utilities and the Bell Company from 1953 to 1964. The average ratio for the Bell Company was 5.3%, compared with 6.2% for the twelve companies which comprised the British Columbia Telephone Company and eleven United States' companies. During cross-examination, a shorter period was suggested by Counsel for Bell, from 1958 to 1964, and when this period was used, the average ratios calculated were 5.18% for Bell and 5.31% for the others; thus, said Counsel, Mr. Van Scoyoc's ratio of 5.3% was fair. To this latter ratio, Mr. Van Scoyoc had made adjustments of 5% for financing costs and 3.52% for market pressure, and had added a safety factor of 0.75% to arrive at his final figure of 7% return on equity.

In Counsel's submission, earnings-price ratios, properly adjusted upwards for various factors, were a proper test which was acceptable to many leading commissions and were an acceptable method of judging what the market required as earnings. Such ratios were also very useful in judging trends in the cost of capital, and it was obvious that the Board had taken such trends in the cost of capital into consideration in its past judgments. One of the various attacks that had been made on the use of earnings-price ratios was to indicate that such ratios were lower than bond yields for the same company. Counsel suggested that this was true for all companies, but this did not mean that earnings-price ratios should never be considered in the cost of capital; such ratios indicated the market price which investors were actually paying for current earnings. Mr. Van Scoyoc, however, had not suggested using the bare ratios themselves, but had adjusted them upwards. In this connection, Counsel referred to Bonbright's *Principles of Public Utility Rates* at page 253, as follows:

"It is the problem of deriving the current cost of common-stock capital to any given company from the earnings-price ratios of the stocks of otherwise comparable companies that themselves may be earning, and expected to earn in the future, rates of return well in excess of their own costs of capital.¹²"

¹² This particular problem might be avoided by deriving the cost of equity capital from a record of earnings-price ratios and dividend yields of the stock of the very company in question, rather than from a set of comparable stocks, as long as this stock has been selling at prices not grossly in excess of book values."

Counsel said this fitted the Bell Company very neatly. The Municipalities had produced a record of earnings-price ratios of Bell, and Bell's stock had not been selling grossly in excess of book values, particularly from 1958 to 1963. Mr. Van Scoyoc had testified that, over a long period, the average market price had been only 134% of book value; in recent years, said Counsel, it had been

about 150% of book value. In this connection, Mr. Kosh, in his article in the September 26, 1963 issue of *Public Utilities Fortnightly*, entitled "Recent Trends in the Cost of Capital", had found that there was no cause for concern when market prices did not exceed book values by more than 50%; it was only when they rose to twice, or more than twice, book value that there was cause for concern.

Mr. Van Scoyoc, said Counsel, had used the twelve-year period 1953-1964 in preparing his Schedule 9 of the average earning-price ratios and he had then made various adjustments to the 5.3% he had obtained, in order to arrive at his final figure of 7%. He had then attempted to test his conclusion by preparing Schedule 11 which was a projection for four years ahead. This latter Schedule had been attacked by Counsel for Bell who had suggested that Mr. Van Scoyoc ought to have used a period of 12 years or longer and Counsel for Bell had also produced an exhibit showing what the results would have been with a twelve-year projection. This twelve-year projection had produced a figure of something like 10.18%, a fantastic figure in Counsel's opinion. Counsel for the Municipalities observed that Dr. Morton, the Bell witness in the current proceedings, had attempted to use such a projection in another case, the *Washington Public Service Commission case in re Washington Water Power Company*, 33 P.U.R., 3rd., page 468, at page 488, and that Commission had stated as follows:

"...Dr. Morton relates market prices to dividends as far as 12 years in the future. It would thus appear that Dr. Morton's results stand or fall on whether he can establish that investors can, in fact, estimate future earnings with a reasonable degree of accuracy. His reluctance to estimate future earnings for any of the companies he analyzed raises some doubts as to the very foundation of his approach. The effect of what Dr. Morton seems to be saying is that even though he cannot estimate future earnings one and two years in advance, he is confident that investors can estimate future earnings and do so as far as 12 years in the future. This we find difficult to accept."

Counsel noted that Dr. Morton had also made a similar long-term projection in the *Diamond State Telephone case*, 21 P.U.R., 3rd., page 417.

Counsel said the following cases had affirmed the use of earnings-price ratios: *Public Service Commission of the District of Columbia v. Chesapeake & Potomac Telephone Co.*, (a 1964 decision which was not yet reported and in which the earnings-price ratios used by Dr. Thatcher were accepted); the *Louisiana Commission case*, 34 P.U.R., 3rd., page 92, and the *Supreme Court judgment* with respect to that case, 33 P.U.R., 3rd., page 358; the *Washington Public Service Commission case re Pacific Power & Light*, 33 P.U.R., 3rd., 433, in which Mr. David Kosh was a witness; the *Federal Power Commission case re Tennessee Gas*, 35 P.U.R., 3rd., pages 270, 275; and the *Pennsylvania Commission case*

re *York Telephone & Telegraph*, 53 P.U.R., 3rd., page 146 at page 174, the case in which Dr. Morton's evidence as to comparable earnings of electric utilities was not accepted, whereas the evidence of another witness as to earnings-price ratios was accepted.

Counsel quoted the following from the Federal Power Commission judgment cited in the preceding paragraph:

"The investor's appraisal of the risks inherent in the enterprise and the return which he requires in the light of this appraisal are basic to a determination of the allowance for common equity, and the commission as a matter of practice has always looked to earnings-price ratios as an indication of such investor appraisal. We are of the opinion that the study of earnings-price ratios for Southern and comparable pipeline companies over a period of years, put in evidence by the staff, may properly be used with judgment, together with other factors in determining a reasonable allowance for Southern's equity."

With respect to the criticism that had been made of both earnings-price ratios and book-value ratios, to the effect that they both incorporated an element of circular reasoning, Counsel said he did not agree with such criticism. The element of circular reasoning was attributed to the fact that such ratios reflected the allowable rate of return, but Counsel said that whatever rate of return was allowed was bound to be reflected in the market place, which automatically capitalized what the company had to offer. The same circular reasoning was evident in the comparisons made by Dr. Morton and Mr. Groleau, because they were affected by the actual rates of return fixed by regulatory bodies.

As to the critical observations of NARUC with respect to earnings-price ratios, which had been cited by Counsel for Bell, Counsel for the Municipalities noted that such observations had not been, to his knowledge, cited by, or approved in, any judgment of any regulatory commission in the United States. Surely, he asked, if these observations had any effect at all, they would have been the subject of such comment. In this connection, Counsel said Nicholls and Welch, in their *Ruling Principles of Utility Regulation and Rate of Return, Supplement A*, stated the following at page 245:

"The Fifth Circuit Court of Appeals, however, in a 1961 case ruled that the Federal Power Commission properly considered the earnings-price ratios of a natural gas pipeline company seeking a rate increase to test the degree to which the investing public considered the return to be commensurate with other pipeline companies."

Counsel also quoted the following from page 251 of Nicholls and Welch regarding a decision of the Louisiana Supreme Court, which is reproduced in part below:

"Despite the infirmities of the earnings-price ratio approach in determining the cost of equity capital, the court said, it serves as a reasonably reliable guide in fixing the cost of equity when it is used with informed judgment based on statistical data and other relevant factors."

Counsel said that Nicholls and Welch also state that the Louisiana Commission relied chiefly on earnings-price ratios in 1961 and that the New York Commission had approved such ratio as a highly significant tool in 1961.

Counsel said the fifth test for a proper rate of return was the examination of the actual allowable rates of return fixed by other regulatory bodies and of utilities having comparable risks and uncertainties, and the making of appropriate adjustments. The Bell Telephone Company of Canada was, however, unique in its characteristics and size; it was therefore difficult, if not impossible, to find comparable statistics for comparable companies in Canada. In this connection, Counsel referred to the judgment of the Supreme Court of California, in which reference was made to the fact that the California Commission had found an 8.25% return on equity and that United States' commissions since 1957 had found a median average return on common equity capital of 7.75%. Counsel suggested that, if adjustments were made to that latter figure for the historical differences in earnings achieved by Canadian investors, it would be reduced well below 7%.

The sixth test, said Counsel, was that of attraction of capital, but this test had to be made in company with the other test of comparability of risks and uncertainties. It necessarily followed from this that the allowable rates of return for regulated utilities would be less than those available to unregulated companies where there was no comparability of risk and uncertainty. Even if Bell were to be awarded a return of 8.5% on equity, it would be competing in the market, not with averages, but with other companies who might be making a variety of higher returns. It was clear and obvious, said Counsel, that a regulated company with a lesser rate of return could compete with other companies having a higher rate of return, and could attract capital, because the market itself capitalized what the utility and its competitors had to offer and fixed a price at which the shares would move. Thus, in Counsel's submission, the only criterion was the return necessary to attract capital, and this was to be found in the judgment of the Ontario Energy Board, which had been cited by Counsel for Bell, as follows:

"The determination of the reasonableness of the rate of return depends on many factors which can only be arrived at by the exercise of informed judgment on all relevant facts, including the earnings of other enterprises whose operations are attended by similar risks and uncertainties, and the return necessary to permit a utility to invest new capital as needed, at a reasonable cost."

The Louisiana Supreme Court, in the case of *United Gas Pipeline Company v. Louisiana Public Service Commission*, 39 P.U.R., 3rd., page 349, at page 356, had said the following with respect to the attraction of capital:

"The rates should be high enough, but not higher than may be necessary to attract capital and to hold it there."

There had, said Counsel, been no proof whatever by Bell of the exact amount, or even of the range of return, necessary to attract capital. The only part of the evidence to which reference could possibly be made in this regard arose from questions put to Mr. Atchison, the Bell witness on Investor Appraisal of the Company. During cross-examination, Counsel said he had asked Mr. Atchison whether it was not true that, as Bell had issued stock at \$38 in 1964 and had enjoyed earnings in that year of \$2.71 per share, this would amount to 9% if allowance were made for the value of rights. Later on, the Board had asked Mr. Atchison whether a 9% return on equity was sufficient and he had replied that it was. It was not, however, clear whether this last answer was meant to include the benefit of rights, but Counsel suggested that, as the Board's question came very shortly after his own, the witness was probably thinking in terms of the inclusion of the value of the rights. Apart from that answer, however, there was no reference whatever in the record to any proof of any specific return on capital being necessary.

Bell, said Counsel, had referred to the necessity of having such return as would preserve the integrity of the investment, and he would infer from this that the rate of return should protect the investors in Bell from inflation. In Counsel's submission, there was no obligation whatever in the law to protect the investor against inflation; it was not referred to in the *Bluefield* or the *Hope* cases, or in any authority or judgment of which Counsel was aware. To Counsel, the words "integrity of capital" and "integrity of investment" did not imply an obligation to protect, but simply meant that it was advisable to fix a rate of return that would permit the sale of future shares at more than book value, so as not to dilute the equity of existing shareholders. Generally speaking, said Counsel, that had been the case for Bell, with very few exceptions.

In Counsel's opinion, a regulated utility should not be protected from the effects of inflation because, among other reasons mentioned by Counsel: high target rates of return caused inflation; a regulatory body could not prevent inflation, although it could avoid actions that would add to it; the shareholders were not entitled to be singled out for privileged protection and thus be relieved of risk; new purchases of stock were made with inflated money; market prices took potential inflation into account; and inflation was less likely with a slackening of growth in the economy. If there were any slackening in growth, a process which had already started in the opinion of Counsel, the profits of industrials

would fall, but the profits of the Bell Company would not fall in the same way. The shareholders of the Company, said Counsel, had been protected from inflation more than appeared from the Company's average earnings of 7%; they had the benefit of the retained earnings of Bell's subsidiaries and of rights, which brought the total return to more than 9%. If the Company's bondholders were satisfied with a yield of slightly more than 5.5%, then shareholders ought to be satisfied with a 9% return on an income stock.

Counsel quoted Bonbright's *Principles of Public Utility Rates*, pages 271 and 272, and Note 30 on page 271, in support of his views with respect to the protection of shareholders from inflation. He also cited the Louisiana Commission case, 34 P.U.R., 3rd., page 78, and the Washington Commission cases, 33 P.U.R., 3rd., page 487, and 53 P.U.R., 3rd., page 455, which he said had declared that inflation should not be considered as a factor in rate cases.

If, said Counsel, Bell were to be awarded the 7% return on equity suggested by the Municipalities, its stock would grow much more than before, when it was limited to \$2.43 per share. This was shown by the testimony of Mr. Groleau, when he had said:

"The determination and expression of a return in terms of a percentage on capital will permit growth in earnings per share as book equity rises. It does not mean a continually rising rate of earnings on equity once a reasonable level has been attained."

Thus, said Counsel, there would be some growth. There were, however, two kinds of growth: the moderate growth which the Municipalities suggested Bell should have from a 7% return on capital; and the growth pertaining to a growth stock, defined as a stock maintaining pronounced growth substantially above the average. If Bell were to be given a high rate of return, like 8.5%, it would be neither an income stock nor a growth stock, and it would have to compete with those true growth stocks growing at a rate substantially above average. In Counsel's view, Bell ought not to be allowed by regulation to move into the area of growth stocks. Its stock had had a long and honourable tradition as an income stock, with sound, reasonable earnings and dividends, during which time the Company had been able to raise all the capital it needed. In this connection, Counsel noted that the Company's earnings on capital had moved only from 7.13% in 1959 to 7.05% in 1963, but that capital was still raised. The Company, he said, had adduced no evidence as to difficulties in raising capital.

In evidence, the Company had referred to three periods in its history: the period up to 1958; the period from 1959 to 1964; and the period from 1965 to 1970. In Counsel's opinion, it was the new period with which the present proceedings were concerned, because any new rate of return would be fixed for that

new period. The period from 1959 to 1964 had seen considerable growth in the economy and in the operations of the Company; it had also seen very successful financing for the Company, which had experienced no difficulties whatever with a rate of return averaging about 7% on equity. Counsel said he agreed with the Company's suggestion that the new period from 1965 to 1970 would be one having the same growth as the earlier period, but he suggested it would be a period of slackening growth with great difficulties and uncertainties. His view in this respect was, he said, supported by the Argument of Counsel for Bell, when he had said:

"Prospects for growth are not as impressive as they were after the war because the Company has caught up on the pent-up demand and the construction programme does not show now the tremendous yearly increases of the postwar period."

This, said Counsel for the Municipalities would be good for the Company; it would avoid too much further dilution of equity and, with the Company's lessening demand for capital, coupled with an increase in available capital with slackening growth in the economy, the Company would be able to raise capital more easily than in the past with 7% on equity.

In this connection, Counsel noted that he had already referred to the Company's Exhibit No. B-63, which showed that there had been a much greater demand for bond capital than for equity capital, particularly in the most recent period. Thus, the Company would be in a very preferred position, because it could offer the advantages of a regulated, secure income stock with a reasonable rate of return, not only of 7% on equity, but also an extra 2% due to the benefits of rights' and retained earnings in subsidiaries. The argument of the Company, that there would be a tremendous increase in the demand for capital, and that it would face great competition in securing capital in the future, was just not borne out by the facts, said Counsel. The whole of the evidence of Dr. Barber, insofar as it relied upon the reports of the Hall Commission and of the Economic Council of Canada, was based on projections and assumptions. Counsel for Bell had stated:

"The reduced competition for capital since 1959, up to date, is also a factor which will not be present in the years to come. Both the Report of the Economic Council and Dr. Barber's evidence underline this point."

Thus, the only reason Counsel for Bell had for saying this factor would not be present in the years to come was the Report of the Economic Council of Canada and Dr. Barber's evidence, but those, in the opinion of Counsel for the Municipalities, were based only on projections or assumptions, not forecasts or predictions as to what the future would be.

Counsel said it was illogical to expect that the prosperity which had prevailed for some four or five years would continue unabated in the future. If this were true, then there would be reduced competition for capital and the Company would have no difficulty in securing what it needed at the 7% rate of return proposed by the Municipalities.

Another test for the proper rate of return was the premium of the market price over book value. Mr. Van Scoyoc's uncontradicted testimony was that, over a long period of years, the market price of the Company's stock had been 137% of book value, a substantial premium. In 1961, it was 152%; in 1962 it was 143%; in 1963 it was 150%; in 1964 it was 155%; and the average for the four years was 150%. Mr. Kosh, in his article in the *Public Utilities Fortnightly*, to which reference had been made earlier, was of the opinion that the market price of a utility stock should not exceed 150% of book value. If the Board were to raise the Company's rate of return on equity to 7%, Counsel suggested that the market price would then become 150% of book value, but if the Board were to grant a return greater than 7%, the market price would soar to the point where the market price would exceed 150% of book value. Nothing in the evidence, said Counsel, showed that a rate of return of 7% on equity capital was lower than that necessary to attract capital.

With respect to the question of interest rates, Counsel noted that recent articles in the *Wall Street Journal* suggested that the top of a long-range cycle of interest rates had been reached, after which interest rates should decline. There were also references in the newspapers to a strengthening of bond prices, indicating declining bond yields and increased availability of capital in the near future. Counsel also noted that Dr. Morton had continually referred to the higher level of interest rates in Canada as compared with the United States, but Counsel said this was more than offset by the fact that Canadian returns on equity capital had been historically lower than those in the United States. If United States' figures were adjusted by 20% for that historical difference, and by a further 20% for the dividend tax credit, then the proposed return of 7% would still look favourable compared to earnings in the United States.

As to the question of the investor's risks, compared with the Company's risks, Counsel observed that the market weighed all such factors. There were some 30 million of the Company's shares outstanding at the end of 1964, but the Company had made no proof whatever of any investor relinquishing his holdings substantially between 1959 and 1964. Neither had there been any proof that the Board's 1958 decision to keep \$2.43 per share as the permissive return had had any adverse effect on the price of the stock. Counsel therefore suggested that a 7% return on equity should be adopted as the return for the Company.

Counsel noted that many witnesses for the Company had referred to the need for greater incentives, as follows:

(a) Counsel for Bell, in Argument:

"If, after having displayed skill, talent, efficiency, vision, wisdom and foresight to improve its service in the face of changing needs, this improved performance produces results that the Company and subscribers cannot reap, management will gradually sink into the routine cost-plus approach."

(b) Mr. Groleau in testimony:

"A fair rate of return will provide added incentive and spur management's efforts to improve productivity, to innovate."

(c) Dr. Morton in testimony:

"Without incentives, management may have a tendency toward routine behaviour, lethargy, and lack of initiative."

Counsel said there had been no one who had been willing to swear before the Board that he had not done, or would not do in future, his best to reduce costs or to be efficient because of dissatisfaction with incentives. It was not sufficient to refer vaguely to incentives; there had to be some proof to the Board that something was lacking which required correction. In Counsel's opinion, the Company must have been very efficient, and have had sufficient incentives, from 1959 onwards, because it had been able to produce the results it had without increases in tariffs.

In this connection, Counsel observed that it was very difficult to find objective measurement units for efficiency; that the administration thereof would be prohibitive in cost; and that a regulatory agency might be unable to use such measures without severe encroachment into the field of management. He cited in support of these views an article by G. Burdick in the *Public Utilities Fortnightly*, of March 4, 1965, entitled "Regulatory Recognition of Managerial Efficiency."

Counsel said he was amazed that the Company appeared to have no measure of productivity and had given no figures by which productivity could be measured. The Company had also made no proof whatever that any part of its plant was unprofitable, or earning less than 6% or 7%, or earning more than these figures. The Company had stated that rate increases did not form part of its objectives and that it had no intention to achieve increased rates forthwith. Nevertheless, the Company had adduced no figures to show it was able to earn the higher rate of return it sought without an increase in rates.

With respect to the question of a range of return, Counsel said he did not want to leave the impression that it was illegal in the United States to have a

range, because there had been some judgments which had fixed a slight range. The Maryland Commission in the unreported 1964 case, referred to earlier in argument, had fixed a range of 6.35% to 6.50%, but Counsel noted that one had to go back to 1958 before one could find a similar range in respect of operating subsidiaries of the A. T. & T. The New Jersey Commission had allowed a range of 5.0% to 6.37% to New Jersey Bell in 1958, (24 P.U.R., 3rd., page 181); the same Commission had allowed the same range to the same Company in 1957, (22 P.U.R., 3rd., page 156); and the Idaho Commission had allowed a range of 4.53% to 4.96% in 1956 to Mountain States Telephone & Telegraph, but this was a special case because the Commission had allowed such range in lieu of the usual 6.0% because the Company had failed to operate economically. The Mountain States Telephone and Telegraph Company had been allowed a range of 4.20% to 5.16% by the Idaho Commission in 9 P.U.R., 3rd., page 293, such range depending on the inclusion or exclusion of certain rate-base items, etc. But, in Counsel's opinion, it was noteworthy that these were the only cases since 1955 involving A. T. & T. subsidiaries which had mentioned ranges of return.

Counsel said he wanted to stress that every argument raised by the Company in the present proceedings was exactly the same in effect as it had raised in the 1958 rate case. The transcript of evidence in that case contained the following statements by the Company:

"Changes of great consequence have occurred in the capital markets of both the U. S. and Canada. There has been a marked trend towards professional management of capital funds." (Page 6528)

"Furthermore, basic changes of tremendous importance have occurred in the economy of Canada as in the economy of the U. S. Both nations have experienced major inflation and phenomenal growths. The record of growth and inflation in the past and the prospects for more in the future have brought about tremendous stress on the extent to which any given company can share in growth and keep pace with inflation." (Page 6529)

"The phenomenal development of institutional investors and the tremendous stress on growth and selectivity will continue to be key features of capital markets. In these circumstances it would appear that over the years the capital stock of The Bell Telephone Company of Canada would encounter increasingly keen competition in the capital markets. It must face hard appraisal by informed investors as against alternative equity investments." (Page 6530)

"...the long-run outlook for the economy of Canada remains one of tremendous growth potential and continuing inflationary pressures. Tremendous stress is being placed by institutional investors, of crucial importance in

today's capital markets, on the extent to which any given company can share in growth and keep pace with inflation." (Page 6548)

Counsel noted that the Company's witness, Dr. Langum, had agreed during cross-examination in the 1958 case that the investor had taken for granted the various differences between Bell stock and that of industrials and electric utilities, which had existed and would continue to exist, in the sense that the investor in Bell was "calling on that \$2 dividend with proper and adequate protection through payout and debt ratio." Another witness for Bell, an investment dealer, Mr. Peter Kilburn, had suggested in the 1958 case that no one would try to make a case for Bell as a growth stock and that the case for Bell rested on its ability to continue to pay the \$2 dividend regularly, that plus the valuable issues of rights being all the shareholder had expected to get. Mr. Kilburn had stated further that Bell shareholders were buying income and looked for two main ingredients: the rate and trend of earnings per share in relation to dividend, and the amount and trend of retained earnings in relation to dividend. In Mr. Kilburn's view, public faith in the \$2 dividend would be shaken, with serious consequences for the Company's ability to raise capital, when there was evidence that earnings had shrunk to the point of prejudicing the dividend itself with no effective relief in sight; but the public felt that, even though the Company's margin of earnings per share in respect of dividend requirements would fail to meet normal standards, there was something inherent in the Board's regulation which gave protection for the \$2 dividend. Counsel concluded by noting that, despite the foregoing factors, the Board saw fit in 1958 to maintain the permissive level of earnings of \$2.43 per share.

In Counsel's opinion, investors in Bell had another, hidden advantage, in addition to the advantages of earnings and rights' issues, due to the time lag during construction. The shareholder knew, in effect, that the Company's potential earnings were greater than the situation in any one year would indicate, because part of the Company's share issues was reflected in the cost of construction which would not be producing revenue until some future time. Counsel observed that the situation in the United States was different, because the subsidiaries of A. T. & T. financed construction via debt capital, stock being issued at par when the construction was complete.

With respect to the matter of financing, Counsel cited the following from the judgment of the California Commission with reference to The Pacific Telephone and Telegraph Company, dated June 11, 1964:

"Leading California utilities such as Pacific Gas and Electric Company have financed new stock issues by taking full advantage of existing market prices in obtaining increasing amounts of money in comparison to the number of shares issued. Respondent, on the other hand, issues all of its common

stock to existing shareholders at par regardless of market price, thereby diluting per share earnings. At no time has it endeavored to seek equity capital at the lowest possible cost in recognition of a favorable market price at the time of issuance of the new shares. No doubt American, as an investor, owning approximately 90 percent of respondent's common stock, finds it desirable to obtain respondent's new stock at a cost of par. The return to American based on par cost of \$14 2/7 per share, produces a present ratio of earnings to cost of 10 percent and a present yield ratio, based upon dividends to cost, of more than 8 percent."

As to the comparability or non-comparability of telephone companies and electric utilities, the judgment went on to say:

"Nevertheless, respondent chooses to compare its per share earning performance with the per share earning performance of Pacific Gas and Electric Company and Southern California Edison Company, each of which maintains debt ratios of 50 percent or more, takes advantage of market price in new offerings and uses liberalized depreciation for income tax purposes."

Thus, in Counsel's opinion, if Bell continued to use rights' issues and diluted shares, it had only itself to blame, but investors still insisted on getting their earnings and their rights' issues. Through the issue of rights, the Company had diluted its shares and had limited the growth factor, but investors had nevertheless benefitted because they received good returns and the tax-free value of rights.

In conclusion, Counsel observed that the Company appeared to have argued that it would be difficult to finance by way of sales of stock and bonds without greater earnings and had referred in that connection to the tremendous competition which existed. He referred the Board to articles in the *Financial Post* of June 5, 1965 and in *Le Devoir* of May 25, 1965, regarding a shortage of Canadian stocks of quality, and to a statement in the *Montreal Gazette* of June 29, 1965, by the Revenue Minister of the Province of Quebec to the effect that contributions to the Provincial Pension Plan should reduce the government's reliance on private capital markets, thereby releasing funds to industry, probably at reduced rates.

(d) Argument in Reply by the Company:

(1) The Comparability of the Company with United States' Telephone Companies:

Counsel for the Company noted that the Argument presented by respondents was replete with references to the regulation of United States telephone companies, but that no mention had been made of the following very important statement in evidence by Mr. Van Scoyoc:

"In any event, we do not have in the United States a telephone company which is sufficiently comparable to Bell to make comparisons of allowed rates of return meaningful."

In Counsel's opinion, the most significant and most important difference between the United States' telephone companies, to which reference had been made, and The Bell Telephone Company of Canada was the complete independence of the latter Company's management. That independence flowed from the fact that, in distinction to all the companies of any importance in the United States to which reference had been made, there was no holding company in control of Bell's common stock. Whilst there were a few independent telephone companies in the United States, the case wherein the major issues, such as the service contract and the debt-equity ratio, had arisen were cases involving companies either wholly-owned or effectively controlled by a holding company. Counsel said it was clear that the existence of a holding company created an entirely different situation, in that the suspicion might always arise, whether well- or ill-founded, that contracts between the operating company and its parent, or with other subsidiaries of the parent, might not have been entered into solely for the benefit of the operating company.

In the case of The Bell Telephone Company of Canada, there was obviously no holding company, neither was there any single shareholder or group of shareholders who could control the election of one or more directors or the appointment of any of the officers. Counsel for the Municipalities had asked for, and had been supplied with, a list of shareholders holding 5,000 or more shares of the Company's common stock and none of the officers of the Company could be found in this list. There was therefore no suggestion of owner-management; on the contrary, there was a clear case of professional management in which decisions clearly had to be made with only the interest of the Company in mind. If any profits or benefits ensued from such agreements as the Service Contract with the A. T. & T. or the Supply Contract with Northern Electric Company Limited, such profits or benefits had to flow to the Company and not to any other person or corporate body. In such circumstances, submitted Counsel, one had to disregard all United States' decisions in which the real question at issue was whether the actions of management were for the benefit of the operating telephone company as such, or for the benefit of its sole shareholder.

Counsel observed that it was always open to anyone to suggest that the Company's management might not have operated the Company in as efficient a manner as it should have done, but the principal respondents in the present proceedings had made no charge of inefficiency. On the contrary, Counsel for the Municipalities had clearly stated his opinion that the management of the Company was efficient and had reiterated that view. If this were true, said Counsel

for the Company, were the respondents asking that the decisions of independent and efficient management with many years of experience be set aside and that there be substituted therefor the judgment of the Board as to proper management decisions? In this connection, Counsel noted that the Board had never taken upon itself the responsibility of substituting its opinion for that of avowedly efficient management of a company subject to its jurisdiction, and Counsel submitted that the Board would never substitute its judgment for that of management which had been honestly reached in respect of the major factors on which the well-being of the Company depended.

(2) *The Company's Relationships with the Northern Electric Company Limited:*

Nothing, said Counsel, illustrated the difference between the Northern-Bell situation in Canada and the situation in the United States better than the citations from United States' jurisdiction made by Counsel for Industrial Wire and Cable Company Limited. An examination of each and every one of the cases cited showed that in each case the court was considering a situation where the earnings of the supplying or manufacturing company flowed to a company other than the regulated operating company. Not one of these cases dealt with a relationship like that of Bell and Northern where the regulated operating company wholly owned the manufacturing subsidiary.

Counsel said that Northern embodied all the qualities which the Government of Canada had tried to impress on industry in general. It was secondary industry which had grown to such proportions, and had attained such competence and skill, that it found foreign competitors and their satellites trying to find ways and means of embarrassing it. It was the initiator of perhaps the greatest development of research facilities of any private industry in Canada, a development that had to be paid for out of its profits. It had already developed a substantial amount of foreign trade and was continuing to do so to the extent that its foreign competitors were complaining. Industrial Wire, through its associations, apparently had a substantial interest in the export activities of Northern.

Although Industrial Wire had indicated that its intervention in the present proceedings was in the public interest, its representatives had not bothered to be present at the sittings of the Board, unless matters relating to Northern Electric were being heard or were pending, said Counsel.

In his Argument, Counsel for Industrial Wire had invited the Board to look into certain export quotations which had been given by Northern and had said that such quotations would be found to be in violation of Northern's agreement with Bell as to the prices to be charged to non-Bell customers under similar circumstances. Counsel for the Company said that, should the Board see fit to

accept that invitation, it would find some additional facts. These additional facts included the fact that the telephone instrument for which quotations were asked was neither manufactured for, nor supplied to, Bell; the fact that the tenders were asked for by governmental bodies on a confidential basis and were to be released only to the governmental body and to unsuccessful bidders; and the fact that, in each of the cases cited by Industrial Wire, International Telephone & Telegraph Company was also a bidder.

Counsel recalled that, in the course of the proceedings brought by Industrial Wire before the Board in 1963, certain links between Universal Controls and Industrial Wire were established. He noted further that it had recently been announced that International Telephone & Telegraph Company and Universal Controls had reached a preliminary understanding for the I. T. & T. to acquire some \$66 million of Universal's assets. In this connection, Counsel said that two directors of Industrial Wire were shown as being also directors of Universal Controls. Thus, Counsel suggested, the source of Industrial's information and its interest in the export market were fairly obvious.

Counsel suggested that the efforts being made to hamper the expansion and progress of Northern Electric for the benefit of its competitors had an odour unfamiliar to the Canadian scene; such persons, he suggested further, should be told by the Board that the regulatory process was not intended to be used in the interests of, or to the disadvantage of, any company whose operations might be subject to review in whole or in part.

Counsel noted that Counsel for Industrial Wire had made it clear that he was seeking a breakdown of Northern's rate of return, divided between the investment devoted to production for Bell and the investment devoted to production for non-Bell customers, and subdivided between general product classes, yet he had also apparently conceded that the cost data sought would be of no use whatsoever to Bell in assisting it to determine the appropriate price for individual items of equipment. Counsel for Industrial Wire had further questioned whether, in all respects, Bell's investment in Northern was beneficial and in the best interests of Bell's subscribers.

Counsel for the Company said he would repeat that everything which came to Bell from Northern was, and had to be, taken into consideration by the Board as part of the level of Bell's earnings to be examined in determining the requirements for just and reasonable rates. In this connection, Counsel recalled that a member of the Board had commented that it would be extremely difficult to hide any earnings of a wholly-owned subsidiary and he added that it would be extremely foolish to attempt to do so as no one would benefit by it. In these circumstances, Counsel asked, could anyone seriously ask the Board to assume that efficient management would be making imprudent investments and selling its products

at a loss? Every cent of profit from the non-Bell business of Northern had to accrue, and did accrue, to the benefit of Bell and its subscribers. To the extent that such profits were earned, the amount of revenues required from subscribers was reduced.

In this connection, Counsel submitted that the Company had demonstrated that its directors and officers had acted prudently and efficiently in making their capital investments; that the whole of the evidence demonstrated a comparable efficiency of Northern's management; and that Exhibit No. B-59 showed that the management had made its investments prudently, since Northern's earnings were generally comparable with other manufacturing industries in the same general area of manufacturing, the very test which was used in some of the major United States' cases to which Counsel said he would refer later. The combined management of Northern and Bell had provided for Bell's subscribers a higher rate of return on Bell's investment in Northern than the rate of return earned by Bell on its telephone plant operations. Thus, submitted Counsel, so long as the Bell Company's earnings examined by the Board in its determination of a permissive level comprised all proceeds received from Bell's subsidiaries, and so long as the Board was satisfied that management was honest and efficient, there was no problem which required investigation.

As to the suggestion that the Board ensure that the dividends paid by Northern to Bell in any year exceed the proportion of sales to Bell, as compared to non-Bell sales, Counsel said the current dividend met this test. Counsel added, however, that while conceding that the Board satisfy itself from time to time that the dividends paid by Northern to Bell were appropriate in all the circumstances, he submitted it would be unwise to prognosticate the future by making a standing requirement along the lines indicated.

Counsel noted that Counsel for the Municipalities had been asked by the Board whether a return of some 16% on Bell's investment in Northern was not beneficial to his clients and had answered: "Oh, yes, I am going to come to that." But, said Counsel for the Company, he had not come to that in the course of his Argument. In the view of Counsel for the Company, Counsel for the Municipalities had been embarrassed by the fact that Mr. Van Scoyoc, in dealing with the basic factors relating to earnings, had said:

"The fourth and probably most important factor is the dividend-payout ratio. The smaller the portion of the annual earnings paid out as dividends the greater will be the amount of the reinvested earnings. The reinvestment of earnings will result in an increase of per share earnings over the years."

While this had not been said with specific reference to Northern, said Counsel, it was a basic factor that was also applicable to Northern.

The thought had been raised by Counsel for the Municipalities that, at some future time, Bell might distribute its shares in Northern to Bell shareholders. The implications of such a distribution, said Counsel for the Company, were that the Bell shareholder would receive shares of Northern with a book value of \$3.05, on which he would pay income tax. His interest in Bell would be reduced by \$1.17 per share, resulting in a net gain to him before income tax of \$1.88. For this sum of money, the Bell shareholder would lose all the advantages of the Bell-Northern relationship and that relationship would in a short time be at the mercy of a new group of shareholders whose interest would not coincide with that of Bell's subscribers and shareholders. It would be very imprudent management for Bell to give up all the advantages of the Bell-Northern relationship through such a distribution of the shares of Northern. In Counsel's view, it had taken a very long time to acquire all the shares of Northern so that every dollar of profit made by that company flowed back to Bell, and he submitted that it was inconceivable that a Company whose wisdom and efficiency of management had been demonstrated over so many years would suddenly take such a ridiculous step.

(3) *The Relevance of United States' Decisions to the Company's Situation:*

Counsel said he had already indicated that he did not think one could find in the United States any situation comparable with that of The Bell Telephone Company of Canada. For this reason alone, reference to United States' decisions was very dangerous, unless such decisions were used only for their persuasive reasoning when such reasoning was persuasive. Further, there were all kinds of decisions in the United States, some made by appointed boards and some made by elected bodies, and it was practically impossible to judge the quality of the spokesmen being reported.

Counsel noted that it had been suggested by Counsel for Industrial Wire and for the Municipalities, and by their witnesses, that was some principle as to the rate of return of Northern which should be applied by the Board, namely, that Northern's rate of return should be the same as that of Bell. Counsel also noted that he had earlier submitted that the correct principle was that the earnings of Northern should be compared with those of other industries. Two recent decisions had been drawn to the attention of the Board by respondents, but not in all their implications, and in such decisions, the standard applied was a comparison with other industrials in determining what the supply company should earn. These decisions were: *Pennsylvania Public Utilities Commission v. York Telephone & Telegraph Company*, (1964), (53 P.U.R., 3rd., page 146), and *In Re General Telephone Company of Upstate New York*, (1962), (41 P.U.R., 3rd., page 1). Each case involved the relationship between a supply company, Automatic Electric, and a telephone operating company with a common owner, General Telephone Company. In the *Pennsylvania* case, it was held, (at pages 190 and 191), that Automatic's earnings should not be taken as a return on the price paid for the equity by

General Telephone, which was very high, but upon a reasonable percentage return on common equity, and the Commission found by examining Moody's 125 Industrials that 13% would have been a reasonable return. In the *Upstate New York* case, the Commission again found that the proper approach was to ascertain the return on common equity of the supply company, as compared with Moody's 125 Industrials, Dow Jones' 30 Industrials, and the First National City Bank Manufacturing Companies. The Commission then proceeded to use averages derived from Moody's 125 Industrials which showed an average of 13.6% on common equity for the period 1951 through 1959 and its adjustments were made on that basis.

In considering the calibre of commissions, Counsel noted that Mr. Van Scoyoc had mentioned the case of a candidate for commissioner running on a platform of keeping down bus fares. Counsel suggested that close examination of the decisions of provincial boards in Canada would show a great variety of findings and even many unusual ones, but he noted that when a decision, such as the recent California Commission decision, comes along, the advocates of the abandonment of established principles have their heyday and forget, or try to forget, that ninety-nine percent of the commissions have not abandoned their traditional treatment and their traditional findings.

The danger of accepting holus-bolus the presentation of findings such as those of the Supreme Court of California was highlighted, in Counsel's opinion, by a report in the June 10, 1965 issue of *Public Utilities Fortnightly* in which the editor, Francis X. Welch, had the following to say:

"The recent decision of the Supreme Court of California in the Pacific Telephone & Telegraph Company case has been fairly well publicized by this time. But there were two rather interesting if not unusual aspects of the decision which have not been emphasized, as far as we know, in the news digests and analyses. They have to do with the scope of the Appellate review in that case, and, secondly, the upholding of the California Commission's ruling that supervisory wages and salary expenditures must be affirmatively justified, both quantitatively and qualitatively, not merely proven as actual expenditures.

"To refresh the recollection of readers, this was the controversial case in which the Bell Telephone Company originally went before the California Commission with a request for a \$44 million rate increase, only to come out with an actual \$40 million rate cut, plus an order to refund \$80 million retroactively over the past two years. The State Court upheld the rate cut but reversed the refund.

"The scope of the Appellate review in California is rather unique, which of itself should forewarn both regulators and regulatees in other states,

against using this decision too freely as a precedent for cases arising elsewhere. First of all, the California Commission is established by state Constitution, not merely by legislative enactment. Again, the California Public Utility Act expressly forbids the court to pass on facts or to consider new evidence.

"This means that any utility or any other party to a commission proceeding is practically handcuffed before it even starts to take an appeal — handcuffed to the record as taken before the commission, as to all questions of fact and findings of reasonableness. Thus the court was limited to questions of law and a very perfunctory review of all facts.

"Small wonder, then, that the Appellate Court ticked off a whole series of challenged commission findings in the Pacific case and found in each instance that 'no violation of the rule of reasonableness is shown.' Such challenges of fact can become about as futile and frustrating as a baseball player's typical attempt to argue with the umpire. Only on the purely legal question of whether the California Commission had power to order retroactive refunds was the Telephone Company finally able to score, upholding Commissioner Bennett's persuasive dissent."

Counsel commented that the finding of the California Commission in respect of many items was a radical departure from the findings of practically all other commissions in the United States, but the fact that its finding had been confirmed by an Appellate court added an authority to it that was not merited. Western Electric's prices to A. T. & T. operating companies, said Counsel, had been reviewed by many state commissions, but only in the case of the California Commission, and possibly one other commission, had there been any departure from the principle that the supply company's rate of return was to be compared with the earnings level of other industrials, just as the New York and Pennsylvania commissions had found.

Counsel observed that the question of the usefulness of decisions from other sources had also been considered and referred to in the 1958 rate case by Counsel for the Municipalities who had stated as follows:

"Now, of course, it is easy to quote judgments from other courts, but it is perfectly sound to urge that the judgment in any other case must equally be considered from the point of view of the particular circumstances in those other cases; the atmosphere in which rate making is carried on, the important question as to how vigorous the opposition is to the raising of the question on behalf of those who would oppose the company, the witnesses called, the stature of the commissioners, their health, and so on. In other words, we are dealing here with an entirely different set of circumstances."

Counsel concluded by saying that, when decisions of United States' commissions and courts related to facts which were entirely different, and such decisions were cited before the Board, they should be ignored.

(4) The Permissive Level of the Company's Earnings:

Counsel noted that Counsel for the Municipalities had said that the Company had been limited and almost strangled in its growth in the past and that one of the principal reasons for this had been the fact that the permissive level of the Company's earnings had been calculated in dollars per share, instead of a percentage on equity. Counsel for the Municipalities had added a further reason for limitation on the Company's growth: the fact that its sales of shares were issued to employees and shareholders at prices below market.

Counsel for the Company noted, however, that if a percentage return on equity were adopted, the price at which shares were issued no longer assumed the same importance. In his view, a return fixed in dollars per share obviously meant some comparison with the issue price, but a percentage return on equity would obviously limit the return in the proportion that the issue price was high or low.

Of all the persons who had come forward to assist the Board in its investigation, said Counsel, not one had suggested that the proper method of computing a permissive level of earnings was other than in the form of a percentage of the capital employed. There was, however, some difference of opinion as to the factors in the capital structure to which the percentage should be applied. Some had suggested it should be a percentage return on the equity employed, and some, including the Company, had said that a percentage of the total capital employed should be used. Counsel said he thought he would be able to show that the difference between the proponents of the two methods was more apparent than real, but he submitted that the proof before the Board in the present proceedings was conclusive that it would be in the interests of the Company and its subscribers, and in the interests of efficient regulation, to have the permissive level of the Company's earnings stated in the form of a percentage.

The Company, said Counsel, suggested a percentage return on total capital as being in conformity with the almost universally accepted basis of fixing permissive levels of earnings for utilities on the North American continent. The respondent's principal witness, Mr. Van Scoyoc, had agreed that a percentage return on total capital was the appropriate method, but had stated that, in the United States, the capital structures of many utilities were so inflated that the system of percentage return on total capital had had to be abandoned in favour of a percentage return on net investment. But, said Counsel, if one had a capital structure which was not inflated, the result would be the same whether one took

a percentage return on total capital or net investment and, in this connection, Mr. Van Scoyoc had agreed that the capital structure of The Bell Telephone Company of Canada was not inflated. Thus, in Counsel's submission, the long and costly process of determining net investment was unnecessary in the case of the Company and the almost universally adopted basis of fixing permissive levels of earnings, both in the United States and Canada, could be applied by fixing a percentage return on the Company's total capital. On the other hand, the alternative of a percentage return on equity, while perhaps leading to the same result, had in fact found little if any support from all of the regulatory authorities and experts on the North American continent.

Counsel said it was his personal feeling that the fact that a percentage return on net investment or on total capital would in almost all cases result in a lower figure than a percentage return on common stock equity had contributed in some ways to the adoption of the first-mentioned method. But whether the percentage was stated as a return on total capital or on equity, the advantages of stating the return on a percentage basis were now so apparent as to need little comment.

The shareholder, said Counsel, obviously looked at what he paid for the share, and not at what might have been stated as its par value. A percentage return on the book value of the equity took into consideration the premiums paid by shareholders, retained earnings and the like, and made it of little importance to determine the issue price of shares, because the shareholder would get only a percentage of the amount for which the shares were issued. Although shareholders as such might have serious reasons to question the issue price of new shares, subscribers need have little concern over such issue price, if a percentage return on the additional amount of capital was to be the basis for fixing earnings. On the other hand, the shareholders would strive to build up the average equity per share and, in consequence, the average earnings per share, without affecting the percentage return permitted by the regulatory authority.

Counsel noted that an examination of Exhibit No. B-95 indicated that all of the companies chosen by Mr. Van Scoyoc for comparison, with the exception of one independent company in the United States and the British Columbia Telephone Company, had consistently succeeded in earning on total capital something in the area of, if not well exceeding, the 7% that the Bell Company had suggested it would like to achieve in the foreseeable future. For the years 1959 on, the average of all such companies had been 7% or better. Counsel said that although he did not rely on United States' earnings as a valid comparison, he had quoted these figures to indicate that the Company's answer to the Board's request to state what was a proper method of fixing a level of earnings was not an answer that would indicate the Company was reaching for the moon, but was an answer

which indicated that the Company would like to attain the general area of other companies carrying on a similar type of business on the North American continent.

The companies chosen by Mr. Van Scoyoc, said Counsel, effectively included the whole telephone industry in the United States, because the twelve companies included American Telephone & Telegraph Company and General Telephone, the holding companies for by far the greatest part of the United States' telephone industry, and such holding companies reflected in their earnings the earnings of their subsidiaries. In Argument, Counsel for the Municipalities had referred to the fact that the Company had given the earnings on total capital for these twelve companies, but not the earnings on equity. To translate such earnings into earnings on equity was purely a matter of mathematical calculation and Counsel for the Company said that this calculation showed that, in 1964, the average earnings on equity for all these companies was 10.23%, compared with an average of 7.2% on total capital. For 1963, the average return on equity was 10.16%.

Whenever respondents were confronted with figures such as these, said Counsel, they entered into a series of statements and calculations to show that the figures cannot be accepted. The first and most general statement made was that earnings on equity in the United States have been traditionally higher than earnings on equity in Canada. It took, said Counsel, only a very short consideration of the circumstances to realize that this could not be true. Debt costs were always substantially higher in Canada than in the United States and the return on equity necessarily had to be substantially higher than the return on debt, in order to attract investors. It therefore followed inevitably that the return on equity in Canada had to be higher, and not lower, than the return on equity in the United States. The obvious fact, one which had been observed for years, was that there was always a net inflow of capital into Canada; there would not be such a net inflow of capital unless the foreign investor was going to receive a high rate of return. In this connection, Counsel quoted from a memorandum prepared for the Board in a 1953 railway case by Mr. Daniel Marsh, Professor of Economics at McGill University and Senior Economist of the Royal Bank of Canada, to the effect that, so long as there was a net capital flow into Canada, it must be assumed that capital costs and/or return were high compared with the United States or any other country from which capital was imported.

Counsel noted that the second computation made was the one made by Counsel for the Municipalities when he had related the value of rights to book equity and had computed an additional return of 2% on that equity. This, however, in the view of Counsel for the Company, completely ignored the fact that the monetary equivalent of rights did not flow into the Company's treasury. At the same time, there could not be any assurance that rights would continue to flow to

shareholders in the same proportions, if at all. While the study of the past value of rights was of interest in determining the factors which had attracted capital, Counsel submitted it could be of little value in assessing the adequacy of any future return.

Two suggestions had been made by Counsel for the Municipalities, said Counsel for the Company, either of which would bring to an end any value in rights. The first was that the sale of shares should not be in the form of rights and the second was that the country was faced with a depression which would do away with major requirements for equity issues. When Counsel for the Municipalities had pointed out the value of rights was free of income tax, he had overlooked the fact that the shareholder was having his proportionate interest in the Company reduced, if he failed to exercise his rights, and because of that effective loss of a percentage of his capital, there was no tax on the value of rights. Counsel for the Company said, however, that when a computation was made, which appeared to be based on an assumption that the shareholder was getting the cash value of his rights by selling them, and at the same time the equity value of his rights by exercising them, he was completely lost.

With respect to the decisions of certain commissions in the United States concerning the earnings-price ratio, Counsel said that, in the mass of jurisdictions in the United States with elective, appointive and other systems in effect, it was hard to know in any single case whether there had been an objective approach to the questions being studied. Some years ago, the Company had made reference to a commission which had been elected on a platform of reducing rates, had then retained an expert to present a case for reduced rates, and had obviously accepted his evidence and rejected that of the company concerned. In the decisions which had been quoted by Counsel for the Municipalities, in which there seemed to be some approval of the earnings-price ratio approach, Counsel for the Company said it would be seen from an examination of these decisions that only lip service was paid to the formula when the final computation was being made. In each case, the figure reached by application of the formula was increased to such an extent as to be meaningless. In this connection, Counsel for the Company quoted the following with respect to the earnings-price ratio from the 1961 edition of *Cases and Texts on Public Utility Regulation* by Welch, at page 468:

"The trouble arises, however, when the 'experts' try to translate this abstract judgment of the market place by mathematical formulas which will restate it in an accurate manner, as an end result, as the 'true cost of capital' to a public utility whose rates are to be fixed. If the formula is demonstrably fair and justifiable, and can be applied uniformly in various cases without resorting to elaborate or special modifications or particularized revision, all well and good. In actual practice this is rarely the case. Professor Morrissey

of the University of California cites actual examples of inconsistencies, and admitted resort to 'judgment' by these experts, all of which tends to undermine the objectivity of the end results."

This, submitted Counsel, was just what was found in the studies made by Mr. Van Scoyoc; the judgment factor was such that it was impossible to find the basis on which it was made.

Counsel noted that Counsel for the Municipalities had attacked with particular vigour the Company's submissions that increased earnings would be a stimulus to the efficiency of the Company and that there should be no precise mathematical calculation of reasonable earnings. In this connection, Counsel for the Company quoted the following from Bonbright's *Principles of Public Utility Rates*, (1961), commencing at page 262:

"Elsewhere in this volume, attention has been called to what is perhaps the most serious of all the objections to a cost-of-service standard of reasonable public utility rates - to the objection that, as long as rates are fixed so as to assure even a company under mediocre management that it can cover its costs, including a 'fair rate of return,' and as long as any higher return is denied even to a company under exceptionally able management, there will be lacking under regulated private ownership a stimulus for efficiency comparable to the stimulus of actual competition. American experience with regulated private ownership hardly justifies the unqualified indictment that some writers have made against it on this score. But a plausible case, at least, could be made for the thesis that what has saved regulation from being a critical influence in the direction of mediocrity and tardy technological progress has been its very 'deficiencies' in the form of regulatory lags and in the form of acquiescence by commissions in fairly prolonged periods of theoretically 'excessive' earnings on the part of companies whose public repute and whose comparative rates of charge for service have not made them vulnerable to popular attack.

"But while a situation of this kind may be tolerable, it suggests the wisdom of more systematic and deliberate efforts on the part of regulating agencies to distinguish, somewhat as competition is supposed to do, in favor of companies under superior management and against companies under sub-standard management."

As to the suggestion which the Company had made to the Board, that the Board might well find that the 1964 earnings of the Company were just and reasonable and were not at the upper limit of the permissive range, Counsel observed that Counsel for the Municipalities had interpreted this as being a finding by the Board that a minimum level of a 7.4% return on equity would be fixed. This conclusion, said Counsel for the Company, was wrong, both mathematically

and otherwise. The 6.3% return on its total capital, earned by the Company in 1964, was the equivalent of 7.35% on its average equity. If the Board found that the percentage earned in 1964 was not at the upper limit of the permissive range, that could not be interpreted as meaning that the 1964 earnings were to be considered as a floor. On the other hand, the fixed 7% return on equity suggested by Counsel for the Municipalities had all of the disabilities urged by Counsel for the Municipalities; such a finding would require immediate action by the Board in respect of the Company's rates, an action which no one had demanded or even suggested.

Counsel for the Company referred to the discussion by Counsel for the Municipalities of the relationship between the market price of a company's stock and its book value. He noted that Counsel for the Municipalities had stated that Mr. Kosh's opinion in the article cited was that such relationship should not be over 150% and had then proceeded to suggest that no allowance should be given by the Board which would permit the market price of Bell's stock to go higher than 1½ times book value. At this point, Counsel for the Company observed that the Company's stock had a market price approximately 1½ times book value. Later, when Counsel for the Municipalities had relied upon the same author to justify the use of the earnings-price ratio, after having read Bonbright's conclusion that use of an earnings-price ratio might be allowed so long as the stock had been selling at prices not grossly in excess of book values, Counsel for the Municipalities had then said prices for the Company's stock were not greatly in excess of book values. To bring the Company's stock within that definition, Counsel for the Municipalities had excluded the year 1964 because he said the market price must have been affected by the present hearings which had been announced in the fall of that year; he had, however, not excluded 1964 in his prior discussion. Counsel for the Municipalities had then said that the value of the stock over a period of years was 134% of book value, with the exclusion of 1964, and had concluded by saying:

"It is when, as in the last few years, they have risen to twice, and more than twice the book value, that there is cause for concern."

Thus, said Counsel for the Company, if Mr. Kosh's formula were to be applied, and it was twice book value, the Company's stock would have to be in the area of a \$75 market price. Counsel for the Company commented that, long before that happened, he thought the Board would be having another look at the Company.

In concluding his Argument in Reply, Counsel for the Company said that the questions put by the Board in the present proceedings had resulted in answers which in effect were very much the same from the principal parties involved. He thought that when the case put forward by the respondents was examined in its full context that it would be found that, whatever the apparent difference of

opinion, there was in fact no substantial difference of opinion between the principal respondents and the Company, either as to the method of determining a permissive level, or indeed as to the level itself.

(e) Argument in Reply by Industrial Wire and Cable Company Limited:

Counsel said that he stood on the statement he had made earlier that Industrial Wire and Cable Company Limited was a Canadian company with a percentage of foreign-owned shares that was less than in the case of Bell. There was nothing in any suggestion that there was some international conspiracy involving a United States' company or that there was any improper motive.

(f) Argument in Reply by the Canadian Federation of Mayors and Municipalities, et al:

Counsel said that the statement made by Counsel for the Company, that he did not rely upon United States' earnings as a valid comparison, completely supported his own views. There was, however, no proof that, at the present time or over the period under review, Canadian earnings on equity had been higher than such earnings in the United States. The mere fact that capital had flowed from the United States was not proof; it might have flowed for specific reasons, such as the development of natural resources. The quotation from Bonbright, made by Counsel for the Company, with respect to earnings as a stimulus to efficiency, was followed by Bonbright's admission that there was no test for efficiency. The inference that Mr. Kosh had approved twice book value as a ratio was incorrect. Mr. Kosh had said that he would have no grave concern if the ratio were $1\frac{1}{2}$ times, but he opposed 2 times. Counsel said he, too, had never approved the 2 times book value at all.

4. DISCUSSION, CONCLUSIONS AND FINDINGS OF THE BOARD:

(a) Introduction:

As mentioned at the beginning of this Judgment, this review of the Company's affairs was undertaken by the Board of its own motion to expose to public scrutiny and examination all the changes which have occurred in these affairs since our last Judgment of October 10, 1958, and to consider the permissive level of the Company's earnings and the basis on which that permissive level may be authorized for telephone rate purposes. It is the first such public review of the Company's affairs which has been undertaken on the Board's own motion, previous reviews having been initiated by the Company through applications for general increases in its rates and charges, particularly during the nine-year period 1950 through 1958.

Although the end result of such a review, the determination of a just and reasonable permissive level of earnings and of the appropriate basis for that

level, may be readily understood, the issues and considerations involved in arriving at that determination are complex and they are not easily reducible to clear and simple terms for the general reader without a considerable loss of accuracy and precision. Nevertheless, we believe that the evidence and argument, which was ably presented to us during the twenty-two days of hearings held in May and June of last year, and which explored fully all those issues and considerations, merits a wider audience than is usually present at a public hearing. For this reason, as well as to provide the necessary foundation for the discussion, conclusions and findings which follow, we have set out in sections 2 and 3 above a comprehensive summary and paraphrase of the principal points of evidence and argument adduced before us. It should be unnecessary to emphasize that the contents of sections 2 and 3 do not necessarily reflect the Board's views on the matters dealt with therein; they represent what we believe to be a fair and balanced account of what was placed before us, and we should like to stress that failure to mention any particular points of evidence and argument does not imply that such points were not considered and given due weight by us. All of the evidence and argument has been carefully considered and analysed by us in arriving at our findings.

(b) The Board's Jurisdiction with respect to a Permissive Level of Earnings:

The evidence and argument presented with respect to the permissive level of the Company's earnings and the appropriate basis on which it should be authorized for telephone rate purposes will be dealt with in sections 4(f) and 4(g)(2) below. However, it appears appropriate at this point to clear up any misconceptions which may exist as to the Board's jurisdiction in fixing a level of permissive earnings and an appropriate basis, or appropriate bases, for computing such level for ratemaking purposes.

As we have often said before, the Board is a creature of statute and its powers to deal with matters brought before it for adjudication must be found within the provisions of the statutes conferring jurisdiction on the Board. The Board's jurisdiction with respect to telephone companies within the legislative authority of the Parliament of Canada flows from two Acts: the company's Special Act of incorporation and the Railway Act, (R.S.C. 1952, Chapter 234). The Company's Special Act has been described in page 537 of section 1 above; such Special Act, *inter alia*, provides that the Company, the Special Act, and the exercise of the powers conferred thereby, shall be subject to the provisions of the Railway Act and amendments thereto. The principal section of the Railway Act which confers jurisdiction on the Board over the Company is section 380 which, by subsection (13) thereof, extends and applies the provisions of the Act to the Company, with the exception of certain specified sections, "insofar as reasonably

applicable and not inconsistent with this section or the Special Act." Amongst the sections of the Act so extended and applied to the Company are most, but not all, of the sections dealing with traffic, tolls and tariffs, and one of the most important sections in this group is section 328(5) which applies to the Company and confers on the Board powers to "fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost... may from time to time require..." Section 380(2) of the Act provides that all telephone tolls are subject to the approval of the Board; Section 380(3) provides for the filing of tariffs and prohibits the Company from charging tolls which have not been approved by, and filed in a tariff with, the Board; and section 380(4) provides that the Board may deal with telephone tolls in the same manner as provided by the Act for freight tariffs, insofar as applicable and not inconsistent with the provisions of Section 380.

In addition to the powers of the Board described above, the Board has jurisdiction with respect to such matters as the issue, sale or other disposition of capital stock, connections and contracts with other telephone systems, and leave to construct outside plant across highways, etc. It may therefore be said that the Board's jurisdiction over the Company is mainly one of fixing, determining and enforcing just and reasonable rates and charges, free from unjust discrimination or undue preference. The statutes confer no direct power upon the Board to fix a rate base and a rate of return on that base, or to fix a permissive level of earnings, either on a fiscal-requirements basis or on some other basis. Therefore any powers the Board has with respect to a permissive level of earnings must necessarily flow from its wide powers to fix, determine and enforce just and reasonable telephone rates and charges. We consider that we have such powers to deal with a permissive level of earnings, but that they are to be exercised as part of the ratemaking process, as a measure or test of the justness and reasonableness of the rate structure as a whole. This distinguishes the Board's powers with respect to a permissive level of earnings from those of some other regulatory bodies which have been referred to in evidence and argument, because the language of the statutes places primary emphasis upon the Board's powers and duties with regard to the rate structure. In this connection, it should be noted that all previous cases involving the Company's level of earnings arose out of applications by the Company for general increases in its telephone rates and charges. The Board, in determining those applications, tested and revised the new rate structures proposed by the Company in the light of what the Board found to be the legitimate revenue needs of the Company at that particular time. In other words, the permissive level of earnings, (i.e. the level which the Company *may* earn from a given rate structure, but which is *not* in any sense a guarantee of such earnings by the Board), is the Board's measure at a particular point in time, in the light of all the circumstances prevailing at that time, and taking into

account all relevant factors, of the justness and reasonableness of the rate structure as a whole. The Board's findings with respect to a permissive level of earnings, however, are not necessarily applicable to future times, when circumstances and conditions may be altogether different, and this point will be discussed further in section 4(c) below.

In our Notice of September 22, 1964, we said the following with respect to rates:

"The Board does not intend at this time to enquire into the propriety of existing rates. Existing rates, or any revision thereof that may be requested in consequence of the Board's findings, will be reviewed later, if necessary."

The exclusion of existing telephone rates from consideration during these proceedings, which covered all other features of the Company's affairs in a thorough and comprehensive manner, appears to have given rise to some misunderstanding.

As noted above, the permissive level of earnings is a measure or test of the justness and reasonableness of the rate structure as a whole. The present proceedings, in addition to reviewing all the changes in the Company's affairs since 1958, are for the express purpose of determining what is now, under currently prevailing circumstances and conditions, a just and reasonable permissive level of earnings. In that aspect, the present proceedings are no different from those undertaken in the past upon application by the Company for increases in its telephone rates and charges. Until a determination has been made by the Board as to what permissive level of earnings is appropriate at this point in time, it is not possible to measure or test the current justness and reasonableness of the rate structure that has generally been in effect since 1958, just as in previous proceedings on the application of the Company for increases in its rates and charges, it was not possible to evaluate the justness and reasonableness of the rate structures proposed by the Company in support of the increases applied for, until a determination had been made as to a permissive level of earnings.

In this connection, it is important to appreciate that a Company's rate structure cannot be discussed, tested or evaluated *in vacuo*; there must necessarily be some base to which it can be related and from which relevant and appropriate criteria can be derived. Comparisons of the Company's rate structure with that of other companies in Canada or the United States have little probative or persuasive value, unless it can be demonstrated that the facts and circumstances underlying each rate structure are comparable.

(c) Interpretation of the Board's 1958 Judgments:

In the period which has elapsed since our Judgments of January 10, 1958, (76 C.R.T.C. 267), and October 10, 1958, (78 C.R.T.C. 1), which dealt with applications by the Company for general increases in its rates and charges, it has

become apparent that certain misconceptions or misunderstandings exist concerning the Board's findings in those two Judgments which have given rise to uninformed and inaccurate statements concerning those findings, some of which have received wide publicity.

To some extent, these misconceptions or misunderstandings relate to the Board's power to fix a permissive level of earnings and, insofar as they do, we have dealt with this feature in the preceding section 4(b). In the main, however, these inaccurate interpretations of our findings give, or seek to give, them a fixity or rigidity that was never intended and which is not supported, either by the Board's past practice or the language of the Judgments themselves.

It cannot be stressed too strongly, in view of these misconceptions, that the Board is regulating particular companies and not utilities in the abstract. The circumstances and conditions surrounding and affecting these companies differ and they are constantly changing. The capital structure and its total amount changes from time to time; the embedded cost of debt capital changes as additional debt is acquired or refunded; the level of interest rates changes; the issue price, and hence the cost, of capital stock changes with changing market conditions; the various categories of expense change over time, both in amount and composition; and the various sources of revenue also change in amount and composition. The Board endeavours to be a practical Board and it must therefore take the facts of change into account. Consequently, its findings in the circumstances and conditions of a particular time, including the probable future trend of those circumstances and conditions, are not necessarily applicable to future times when circumstances and conditions may be altogether different.

In this connection, it should be pointed out that regulation is, and must be, to a large degree *ex post facto*. The Board has consistently held that its powers are regulative and corrective, and that they are not managerial. Thus, it is necessary for the Board to review the Company's actions from time to time, as it is doing in the present proceedings, and to take whatever corrective action for the future that may be necessary, but the Board's powers do not envisage a retroactive adjustment of the actions of management. Regulation which is inflexibly committed to a rigid mathematical formula, fixed at one point in time, would eventually so circumscribe the operations of a utility as to leave little or no room for the exercise of judgment, initiative or enterprise by its management in the decisions it must make daily. This would constitute an unwarranted invasion of managerial discretion prejudicial to the efficient operation of the business and could soon redound to the detriment of the utility's subscribers.

(d) Discussion, Conclusions and Findings with respect to Certain Subsidiary Issues:

(1) *The Service Agreement with the A. T. & T.:*

The Company's evidence with respect to its Service Agreement with the American Telephone & Telegraph Company is described in Section 2(i)(d) above and its Argument in this connection is summarized in section 3(a)(4) above. Counsel for the Municipalities did not offer any evidence or Argument with reference to this matter, although he did cross-examine the Company's witness on it. It is not necessary to repeat that evidence and Argument here; it was uncontroverted and there was no attack made upon the propriety of the terms and conditions of the Service Agreement.

The Board finds that the Company has substantiated the propriety of the terms of the Service Agreement, the validity of the cost allocations thereunder, and the reasonableness of the payments made thereunder. The Company has also demonstrated to the Board that the value of the services it receives under this Agreement is commensurate with the payment made therefor and that it is beneficial to the Company and its subscribers.

(2) *The Company's Pension Plan:*

The Company's evidence with respect to this matter is set out in section 2(i)(e) above and its Argument with respect thereto is described in section 3(a)(5) above. The Argument of Counsel for the Municipalities is described in section 3(c)(3) above.

As noted in the Argument of Counsel for the Company, the Pension Plan has been extensively reviewed in previous cases dealing with applications by the Company for general increases in its rates and charges. In its Judgments in those cases, the Board found that the cost of the Pension Plan was a proper expense that should not be objectionable to the Company's subscribers. Objections to the non-contributory nature of the Plan were also raised in those previous cases but the Board stated it was not persuaded that a contributory Plan would necessarily result in a saving in total expense.

Since our last Judgment of October 10, 1958, the Pension Plan has been modified to the following extent. Effective March 1, 1959, the pension base was changed from the 10 highest to the five highest consecutive years; the minimum pension payable was increased from \$40 to \$50 per month; and the reduction of pension payments on account of payments under the Old Age Security Act was limited to amounts received under that Act in excess of \$55 per month. Effective May 1, 1962, the minimum pension prior to eligibility for Old Age Security Act payments was raised to \$70 per month, but to continue at \$50 per month after eligibility. Effective October 1, 1963, the pension rate was changed from 1.0% to

1.1% on the first \$10,000 of average annual pay; the minimum pension after age of eligibility to Old Age Security was increased from \$50 to \$55 per month; and certain other changes were made with respect to eligibility to Class "A" pension, survivor options, automatic survivor benefit, vesting of pensions for employees leaving the Company, and reduction on account of payments under the Old Age Security Act.

The Company's evidence was generally to the effect that the foregoing changes were made to maintain the relative status and ranking of its Pension Plan with that of other companies, and that the results of its studies of the Plans of 35 large Canadian employers indicate that the ranking of its Plan with those of other companies has remained almost constant since 1949. Counsel for the Municipalities, on the other hand, has urged us to undertake a study to determine whether or not a non-contributory plan placed a greater burden on subscribers than a contributory plan. He has also criticized the accrual method of funding; has suggested that the Plan be made more progressive; has argued that the Plan should not be liberalized without prior approval of the Board; and has submitted that no evidence was presented to show that the change from a pension base of 10 years to one of 5 years was reasonable.

After carefully reviewing the evidence and Argument on the matter of the Company's Pension Plan, we find no substantive reasons to change our previous finding that the Pension Plan is reasonable and proper as to the cost the subscriber is called upon to pay through his rates. The Company does not operate in a vacuum because it is a regulated utility and its Pension Plan must obviously be reasonably comparable with that of other unregulated companies, if it is to attract and retain the calibre of personnel it needs to operate efficiently. The evidence is persuasive that only such changes have been made in its Plan since 1959 as were reasonably necessary to maintain its relative standing with other, similar Plans. We have seen no evidence that the Company's Pension Plan is unduly liberal, nor any evidence that would persuade us that a contributory plan would necessarily result in a lower overall cost.

It is not the Board's function to prescribe what form of pension plan shall be adopted by management or to supervise the details of its operation. As we said in our Judgment of November 15, 1950, dealing with the Company's first postwar application for general increases in its rates and charges :

"...it is incumbent upon the Board in its regulatory capacity to give careful scrutiny to all items of expense incurred or proposed to be incurred and other matters which might reflect themselves in unjust or unreasonable or unjustly discriminatory impositions on the tolls and charges to be paid by the subscribers: But at the same time to recognize also that there is a 'reasonable zone' wherein the functions of management should not be usurped."

(3) Depreciation:

The Company's evidence with respect to depreciation and changes in depreciation accruals is described in section 2(i)(f) above and its Argument with respect to this matter is set out in section 3(a)(6) above. The Argument of Counsel for the Municipalities is set out in section 3(c)(5) above.

The Company's depreciation practices and rates have been under detailed examination and review in each of the previous rate cases, particularly the post-war rate cases. Little appreciable change has occurred since the last review during the 1958 rate case, the composite depreciation rate having increased slightly, from 4.83% in 1959 to 4.994% in 1964, largely as a result of rate changes in three accounts, (Station Apparatus, Station Connections, and Aerial Wire-Exchange), on which detailed evidence has been given.

Counsel for the Municipalities said he had little to add to this evidence, but he expressed some concern over the possibility that serious obsolescence might occur in the future. He suggested that any such serious future obsolescence should be controlled by the Board requiring the Company to amortize the cost thereof over a period of years. No one has suggested that any serious amount of obsolescence has occurred to date and it is therefore unnecessary for the Board to rule on the matter at this time.

The Board accordingly finds that the Company's depreciation expense at this time represents a proper and reasonable cost to be borne by subscribers in their rates and charges.

(4) The Company's Capital Structure:

No evidence was introduced by the Company on this issue, apart from the facts relating to its capital structure set out in BOARD TABLE II. The evidence of the Municipalities on this issue was given by Mr. Van Scoyoc and by Mr. Courville and is briefly described on pages 578, 579 and 584 of section 2(v) above. Argument by the Company with respect to its capital structure is described in section 3(a)(10) above and Argument by the Municipalities is set out in section 3(c)(10) above.

The position of the Municipalities, in brief, is that the Company's debt ratio should be raised from its present level of approximately 40% of total invested capital to a minimum level of 50%, in order to effect savings in the cost of capital, since debt capital, being a tax-deductible expense, would cost a great deal less than equity capital. It is asserted that this could be achieved over a three-to-four-year period by the addition of about \$360 million of debt capital, without any sale of additional common shares. Counsel for the Municipalities said that, if the Company were to raise its debt ratio to 50%, the Company would also be entitled to a higher rate of return, but it was not made clear to us what that

higher rate of return would or should be. Counsel for the Municipalities also suggested that the Board might well consult with investment dealers to determine whether their view was that Bell would suffer as a result of so raising its debt ratio, particularly if the Company were able to secure a greater rate of return because of the alleged increase in risk.

The Company, on the other hand, has argued that the selection of an appropriate capital structure must, in the final analysis, depend largely on experience and sound business judgment; that such structure ought to be planned for the long term, recognizing that debt capital had to be redeemed at some future time under market conditions which could not be predicted accurately; and that any imagined short-term advantage derived from excessive use of debt had to be weighed against the additional risks and uncertainties the enterprise would be called upon to bear. By fixing a debt ratio of 40%, said Counsel for the Company, management had used wisely the discretion previous decisions of the Board had declared to be within its proper domain. In the light of the need of the Company to maintain an adequate margin of borrowing power to finance growth; the increase in volatility of the Company's revenues; the increased rigidity in the Company's expenses; the risk of rapid obsolescence; the downward trend of the Company's debt interest coverage; and the fact that some quarters would consider a 40% debt ratio to be high under 1965 conditions; Counsel for the Company submitted that any change in the debt ratio would be unwarranted and that there was no reason for the Board to interfere with the judgment of the Company's directors and managers which had been reached after careful consideration of all relevant factors.

The issue is not new. It has been raised in every one of the postwar increase cases involving the Company. In the 1950 rate case Judgment, (67 C.R.T.C. 1), we said:

"The question of what may or may not be an appropriate debt ratio is, in itself, largely academic. The real issue is whether or not this Board should, for the purpose of determining fair and reasonable rates, include as allowable item of expense the cost associated with the financing proposals advanced by the Company... The fact is that no one can foretell with certainty the future. Undoubtedly, Dr. Bonbright [witness for respondents to the Company's application] was acknowledging this aspect of the problem when in testifying as to the reasonableness of a 45 per cent debt ratio he made it clear that his opinion was offered in the light of the recent and current security market and should there be a change in the market the appropriate proportion of debt to equity would need to be reconsidered."

.....

"...In my opinion, and after careful consideration of the evidence... it would be fair and reasonable to accept, as a basis for determining the

Company's requirements, the debt ratio presently existing – namely, 40 per cent. This ratio has resulted from the free determination of the Company's management. I have satisfied myself that,..., its acceptance for the purpose herein necessary would not be detrimental to the Company's undertaking."

In the 1952 rate case, (68 C.R.T.C. 359), we said:

"We are, under present circumstances, somewhat impressed with the desirability of strengthening a utility's financial structure to the extent that under conditions of a less favourable money market it would not be basically handicapped in securing necessary additional capital at reasonable terms. And it would appear that such may be attained at reasonable cost to subscribers in comparison with other alternative means of strengthening a utility's financial position. We would, therefore, allow the financial requirements of the Company to be determined on an average debt ratio of 40 per cent."

And, in the 1958 rate case, (76 C.R.T.C. 267), we said:

"The Board upon full consideration of the evidence on this point sees no reason to alter its findings in its 1950 and 1952 judgments and accordingly finds that a reasonable debt ratio which is fair to both the customers and the Company for the purpose of this case is 40%.

"Since the debt ratio on the Company's evidence for the year 1958 is somewhat less than 40%, an adjustment of about \$2,000,000 has been made in computing the Applicant's revenue deficiency...

"The Board's calculation in this respect is not to be taken as a substitution by this Board for that of the Applicant's management as to what the Applicant's capital structure should be from time to time. The purpose of the adjustment is to give effect in a rate proceeding to the Board's finding that a 40% debt ratio is proper at this time. It is realized that the Company may not in fact average this ratio in 1958, in which case it may be that the per share earnings of the Company will be less than the level permitted herein."

As indicated by the immediately preceding quotation, the Board has, when the circumstances so warranted, seen fit to adjust the Company's debt ratio *for ratemaking purposes*. What is advocated by the Municipalities in the present proceedings is something much more than that: namely, a real adjustment in the Company's debt ratio, to be effected over a period of years through the issuance of debt capital only until a debt ratio of about 50% is attained, in order to achieve savings in the cost of capital through the resulting reductions in corporate income taxes. The underlying assumption of this proposal is that the Company could, if it so wished, effect the placement of substantial sums of debt capital in the market at an interest cost not very materially in excess of that attaching

to its current issues of debt capital and under not much less favourable conditions, and that this could be done without detriment to the Company's undertaking. In our view, this is a very large assumption with very little to justify its adoption by this Board as clear and sufficient grounds to interfere with the judgment of the Company's management.

The Board therefore finds that, for the reasons just stated, an average debt ratio of approximately 40% is fair and reasonable, both to the Company and its subscribers, for the present purpose of determining a just and reasonable permissive level of earnings with which to test the justness and reasonableness of the Company's rate structure as a whole.

(e) The Company's Relationships with Northern Electric Company Limited:

The evidence and Argument on this issue has been summarized above, as follows:

The evidence of the Company: section 2(i)(h);

The evidence of Industrial Wire and Cable Company Limited: section 2(iv);

The evidence of the Canadian Federation of Mayors and Municipalities, et al.: section 2(v), pages 581-584;

The Argument of the Company: section 3(a)(7);

The Argument of Industrial Wire and Cable Company Limited: section 3(b)(1);

The Argument of the Canadian Federation of Mayors and Municipalities, et al.: section 3(c)(7);

The Company's Argument in Reply: sections 3(d)(1), 3(d)(2), and 3(d)(3); and

The Argument in Reply by Industrial Wire and Cable Company Limited: section 3(e).

It is not necessary to repeat the details of that evidence and Argument here for the purpose of our findings.

The substance of the points at issue may be briefly stated as follows. The Industrial Wire and Cable Company Limited contends that Northern's costs should be examined by the Board in the interests of Bell's subscribers because of an absence of arm's-length bargaining between Northern and Bell. To this end, the Board should obtain through Bell Northern's costs and rates of return by general product classes, each class to be subdivided into Bell and non-Bell business. Industrial Wire, however, has stated that it is not concerned with the question of whether the Board should restrict Northern's rate of return on its Bell business, although its two witnesses, Dr. Thatcher and Mr. Simonton, expressed the view that a reasonable rate of return to Northern on its sales to Bell would be the same as that authorized by the Board as a reasonable permissive level of earnings for

Bell on Bell's total capital. Counsel for the Municipalities has argued that Northern's rate of return on its transactions with Bell should be limited to cost plus 7% on equity, the same rate of return which the Municipalities suggest the Board should fix as Bell's permissive level of earnings. Both Counsel for Industrial Wire and Counsel for the Municipalities have placed comprehensive citations from United States' jurisprudence before us dealing with the question of transactions between so-called affiliates in the utility field. In particular, Counsel for the Municipalities has argued that there is no distinction to be made between the A. T. & T.-Western Electric-Bell operating companies relationships in the United States and the Bell-Northern relationships in Canada, and that such United States' jurisprudence is equally applicable to the Canadian scene, especially the recent decision of the California Public Utilities Commission.

The Bell Company has stated that, although its purchases from Northern during the nineteen-fifties approximated 50% of Northern's total sales, there have been very substantial fluctuations in the volume of purchases, even in the period since 1958; that the fluctuations in Northern's total sales were comparable with those experienced by the electric apparatus and supply industry, such fluctuations being greater than those experienced by all manufacturing industries; that Northern's return was very reasonable for a manufacturing industry of this type, the average return on Northern's total capital for the years 1949-1963 having been 10.26% and the range of that return since 1957 having been between a low of 5.98% in 1961 and a high of 9.94% in 1959; that the average return on total capital for the Montreal Stock Exchange list of 65 Industrials since 1957 had ranged from 7.67% to 9.16% and was in the same general area as Northern's return, although Northern's return had been somewhat lower during the period since 1957; and that Northern had been able to maintain its competitive, non-Bell business at prices higher than those charged to Bell. The Company has also argued that the Company's operations are not comparable with the holding-company and affiliate-company situations prevailing in the United States and that, accordingly, one has to disregard all United States' decisions in which the real question at issue was whether the actions of management were for the benefit of the operating telephone company as such, or for the benefit of the sole shareholder, the holding company. The Company has further pointed out that it receives dividends yielding some 16% on its investment in Northern which dividends are taken into consideration by the Board as part of Bell's earnings in fixing a permissive level of earnings and thus benefits Bell's subscribers.

In our Judgment of January 10, 1958, (76 C.R.T.C. 267), we said, in part, as follows:

"On the evidence the Board finds that at this time Bell's investment in Northern Electric is not in fact prejudicial to the interests of Bell's tele-

phone customers and, further, that prices paid to Northern Electric by Bell are as low as or lower than going prices."

In reconsidering this matter in the light of all the evidence and Argument which has been placed before us in these proceedings, we have come to the conclusion that, so long as the Board is satisfied that the prices which Bell pays to Northern are fair and reasonable, and so long as Bell's investment in Northern is not prejudicial to the interests of Bell's subscribers, there exists no need for the Board to prescribe the level of return on Northern's capital devoted to Bell business. We will, however, consider this return on Northern's capital devoted to Bell business as an indicator of whether or not the total payments for goods and services provided to Bell by Northern are fair and reasonable.

In this connection we have noted the Company's evidence concerning Northern's overall rate of return, to the effect that such return was reasonably comparable with the average return of the Montreal Stock Exchange's 65 Industrials. Counsel for the Municipalities has argued in connection with the Board's responsibilities in determining a permissive level of earnings that the Board must take the state of the economy as it is found to be; we see no good reason why the same consideration should not apply generally to Northern Electric, in the sense that its performance may be compared in relation to the general environment in which it and other manufacturing companies which have no connection with a regulated utility are in fact operating. By this test, Northern Electric does not appear to deviate unreasonably from the average of the generally accepted standards of performance of other industrial companies. The Board is well aware, of course, that this test, in itself, proves nothing as to the reasonableness of Northern's prices to Bell, but it does demonstrate that Northern's overall rate of return is within the range of returns normally achieved by other manufacturing enterprises and does not exceed that range.

We have also noted the overall rate of return earned by Western Electric in the United States, since that Company's relationships with the A. T. & T. and the Bell operating companies in the United States have been described by respondents as having useful similarities with the Bell-Northern relationships. Notwithstanding the cost data supplied by Western Electric to the NARUC Committee, and notwithstanding the decision of the California Commission which has been cited to us, it appears from the NARUC study for 1964 that Western Electric's return on net investment for the nine-year period 1955 through 1963 averaged 10.1%, ranging from a low of 9.3% in 1958 to a high of 10.6% in 1956. This return on net investment is the nearest comparison that can be made with Northern Electric's return on total capital which, according to Bell Exhibit No. B-57, averaged 9.46% for the same nine-year period and ranged from a low of 5.98% in 1961 to a high of 13.5% in 1955. Western Electric's scale of operations

is very much larger than that of Northern Electric and Western Electric, unlike Northern Electric, has essentially only one customer, the Bell operating companies in the United States. In the light of the foregoing, it does not appear that Northern's overall rate of return is unreasonable.

We have noted further the allegation that the "most-favoured-customer" provision of the Bell-Northern Supply Contract would not necessarily preclude the charging of prices to Bell which would result in more than a reasonable return on such business, as well as the suggestion of Industrial Wire and Cable Company that Northern's return on its Bell business is higher than that on its non-Bell business, and we have been persuaded that further evidence should be presented by Bell, so as to furnish the Board with an additional check upon the reasonableness of the general level of prices paid by Bell to Northern. We therefore requested Bell to provide us with a breakdown of Northern's return on capital devoted to Bell business and on capital devoted to non-Bell business. Such a breakdown was furnished to us and we have examined the methods and procedures used in its preparation.

It is our finding that Northern Electric's return on capital devoted to Bell business is lower than the return on capital devoted to non-Bell business. It is also our finding that the return on capital devoted to Bell business is reasonable and we consider this to be further evidence that the general level of prices which Bell pays to Northern Electric is not unreasonable at this time. We shall continue to examine, from year to year, Northern's return on capital devoted to Bell and non-Bell business.

We do not accept the proposition, largely based upon the decision of the California Commission cited to us, that Northern's return on Bell business should be restricted to the same level as the return allowed to Bell on its utility operations. There is little doubt that Bell and its subscribers derive advantages from Bell's association with Northern which Bell would not have if Northern were restricted to Bell business only and that the scale of Northern's operations and the utilization of plant facilities would be entirely different, and unit costs would likely be higher, if Northern's operations were confined to Bell business only. While Northern has, in a sense, a guaranteed market in Bell's requirements, the evidence is that Bell does not take a constant or guaranteed percentage of Northern's output, but takes a fluctuating percentage of that output. Northern's return on its Bell business and on its non-Bell business has fluctuated also from year to year. Nevertheless, Northern's return on its Bell business has not, in fact, been much higher than Bell's rate of return on its own utility operations. The risks and uncertainties inherent in a manufacturing operation, in our opinion, are different from those encountered in the operations of a utility and there is little to justify the proposition that the rate of return for a manufacturer supplying

goods and services to Bell should be restricted to the rate of return found reasonable for a public utility.

So far as the Board can determine, the California Public Utilities Commission is the only regulatory body in the United States which has restricted the earnings of an affiliated manufacturing supplier to the level of the utility under regulation. In this connection, we have noted the following from a recent article by A. J. G. Priest, Professor of Law at the University of Virginia, in the *Public Utilities Fortnightly*, (Vol. 77, Issue No. 3 of February 3, 1966):

"In a recent Bell system proceeding before the District of Columbia Public Service Commission, that agency was urged by the General Services Administration (GSA) to adopt the California position that the return of the manufacturing arm of a utility should be the same as that of the utility it serves. But the District of Columbia Commission said 'The fallacy of GSA's position is exposed in the applicant's brief'.

"Except for (1) the California decisions which, for rate-making purposes, transformed Western from a manufacturing company into a public utility, and (2) the less consequential adjustments made by the Michigan and Missouri Commissions, and (3) the anomalous determination of the District of Columbia Commission just noted, Western's prices have been consistently accepted as Bell operating company costs for rate-making purposes. Prices and profits have been held to be reasonable, for both plant account and operating expense determinations, in more than 200 proceedings in which detailed testimony has been presented on behalf of Western."

In summary, then, our findings on this issue are: that Bell and its subscribers derive advantages from Bell's association with Northern Electric which would not be available if Northern Electric were to be restricted to Bell business only; that Northern Electric's average overall rate of return on capital is within the range of rates earned on the average by other similar industrial operations generally; that Northern's overall rate of return on capital is not on the average much different from that earned by Western Electric in the United States; that there are no sound reasons why Northern's rate of return on capital devoted to Bell business should at this time be restricted to the level which the Board finds reasonable as a permissive level of earnings for Bell; that the rate of return on Northern's capital devoted to Bell business is lower on the average than the rate of return on capital devoted to non-Bell business; that the rate of return on Northern's capital devoted to Bell business is not unreasonable at this time and is not much higher than the rate of return earned by Bell on its own operations; and that Northern's general price level to Bell is as low as, or lower than, the prices paid to Northern by others and that such general price level is not unreasonable.

(f) The Permissive Level of Earnings and the Bases for its Assessment:

The evidence and Argument on this issue has been summarized above, as follows:

- The evidence of the Company: sections 2(i)(i); 2(i)(j); and 2(i)(k);
- The evidence of the United Electrical, Radio and Machine Workers of America: section 2(ii);
- The evidence of the Communist Party of Canada: section 2(iii);
- The evidence of the Canadian Federation of Mayors and Municipalities, et al.: section 2(v);
- The Argument of the Company: sections 3(a)(8); 3(a)(9); 3(a)(10); 3(a)(11); 3(a)(12); and 3(a)(13);
- The Argument of the Canadian Federation of Mayors and Municipalities, et al.: sections 3(c)(8); 3(c)(10); and 3(c)(12); and
- The Company's Argument in Reply: section 3(d)(4).

There is no need to review it in detail here for the purpose of our findings.

The main outlines of the positions taken by the Company and respondents are as follows. The Company states it should be permitted to earn an overall rate of return of 7% on its average total capital outstanding. Such an overall rate of return would provide a return of about 8.5% on its average common equity capital. The Company regards this overall rate of return of 7% as the floor of a reasonable range of rates of return, but as the Company says is so far away from achieving this minimum requirement at the present time it says it cannot, and does not think it is necessary to, define the upper limit of this "zone of reasonableness." It suggests that the Board make two findings: (1) that the return earned by the Company for the year 1964 was not in excess of a just and reasonable level; and (2) that such return for the year 1964 was not at the upper limit of the permissible range of earnings. The Municipalities, on the other hand, consider that the Board should fix a specific rate of return in the form of a percentage of equity or of total capital, or that the Board should fix specific earnings per share. The Municipalities state that they are willing to concede to the Company a rate of return of 7% on equity capital, or 6.1% on total capital, but they reject the suggestion of a "zone of reasonableness."

In brief, the Company's position is founded upon the following considerations: that the fair return for the Company is a "competitive return", one which capital could earn in competitive enterprises of corresponding risk; that such a fair return should enable the Company to attract sufficient capital to finance the enterprise; that regulation, while preventing monopoly profits, should stimulate the search for "efficiency profits" by administering the fair return within a range of reasonableness; that per-share earnings should not be independent of book equity per share; that, over the period 1947-1963, comparison of the financial performance of Bell's common stock with that of Canadian industrials, and that

of United States' industrials and utilities, showed that Bell's return on equity and its growth in market price per share had been much smaller than that of any other group of companies with which it might reasonably be compared; that the guide to a reasonable level of earnings was the performance of other companies of comparable risk; and that the fair rate of equity earnings for Bell lay within a range beginning with the adjusted equivalent of the earnings of United States' utilities (8.6%) up to the 10% to 12% earnings of industrial equities. Further considerations in support of the Company's position are said to be: the decline in coverage of interest charges since 1952; the relatively higher cost of debt issues; the deteriorating earnings performance of Bell equity during the latter half of the nineteen-fifties, as a result of which the Company had increased its dividend rate at the end of 1959; the need to raise half a billion dollars over the next five years in an increasingly competitive capital market; the growing role of professional and institutional investors reflected in an increase in institutional holdings of Bell stock; that shareholders of Bell had suffered a real loss in the value of their investment between 1946 and 1963; that rights values had not been compensating for inadequate earnings; and that Bell's earnings over the period 1946-1963 were lower than those earned by the companies shown on Exhibit No. B-65 who failed to maintain the integrity of the shareholder's investment.

The position of the Municipalities, in summary, appears to be founded on the following considerations: that the actual return to investors in Bell was greater than the apparent return, by reason of the benefits of Northern's retained earnings and tax-free capital gains from rights; that fixing a floor for the rate of return would lead to confusion and speculation and would probably soon result in an application for increased telephone rates; that the companies used by Bell as a test of comparable earnings were not comparable with Bell; that regulation should be based on costs of service, including costs of capital; that the ideal test of costs of capital was the ratio of concurrent earnings to net proceeds via underwritings, a test which was not available in the case of Bell; that the ratio of concurrent earnings to net proceeds via rights' issues indicated only the maximum cost of capital; and that the use of earnings-price ratios indicated that the permissive level of earnings should be 7% on equity capital. In this connection, the Company has challenged the validity of earnings-price ratios as indicators of the cost of equity capital, principally on the ground that its reasoning is suspect and logically inconsistent with the purpose of regulation.

We have not, of course, recited all the considerations advanced to us; these are set out in the main in the summaries of evidence and argument and they have all been given due weight by us.

Both the Municipalities and the Company agree that a rate-of-return basis is to be preferred in fixing a permissive level of earnings. The Municipalities appear to stress the application of such a rate of return to equity only, whereas the Company advocates that it apply to total average invested capital. After

careful consideration, we are persuaded that the computation of a permissive level of earnings with which to test the justness and reasonableness of the rate structure as a whole should take the form of a percentage of the Company's total average capitalization. We are not of the opinion that this percentage should apply to equity capital only.

Both the Municipalities and the Company differ on the question of whether the percentage should be fixed in terms of a reasonable range or as a single figure. The Municipalities insist on a single figure and the Company desires a range having a floor but no ceiling. As we have pointed out above in section 4(c), the circumstances and conditions affecting the Company are not static and are continually changing. We have also said that the Board tries to be practical and to take the facts of such change into account. We are therefore not persuaded that reasonableness can, in practical terms, be expressed as a fixed point from which there can be no deviation. We therefore propose to use a range of percentage earnings on total average capitalization, but it will be a relatively narrow range and its boundaries will be precisely defined.

As noted above, there is also a difference of view between the Company and the Municipalities as to the percentage amount of total average capitalization that would be just and reasonable as a permissive level of earnings under current and immediately foreseeable conditions. Based primarily on a comparison of its earnings with those of other companies and utilities, the Company advocates a 7% return on total average capitalization, whereas the Municipalities, based on an earnings-price ratio approach, advocate 7% on equity, equivalent to 6.1% on total average capitalization. After the most careful consideration, we are unable to agree with either percentage that has been proposed to us.

It is our view that, in the light of all that has been placed before us, in the light of the experience of the past eight years, and in the light of current and immediately foreseeable conditions, the overall rate of return on the Company's total average capital outstanding, as defined in BOARD TABLE II, should lie within a range of from 6.2% to 6.6%, fractions of less than 0.05% to be dropped in the computation and fractions of 0.05% and higher to be raised up to the next tenth of one per cent in the computation. This does not mean, however, that the Board would necessarily accept the actual total average capitalization as it exists from time to time, since the Board considers it should be free to make any adjustment in such capitalization that it considers proper. In the present proceedings, the Board accepts the actual total average capitalization as the basis for its computations.

We therefore find that the Company's rate structure as a whole is just and reasonable in that it does not produce earnings resulting in a return for the Company on its total average capitalization greater than 6.6%. Such a finding is not to be construed as an entitlement to a return of 6.2% to 6.6% or as a guarantee of upward adjustments in the rate structure to permit the earning of a return within that range; it is simply the Board's measure at this time of the justness and reasonableness of the Company's present rate structure as a whole.

Neither does such a finding mean that adjustments of a routine nature in particular parts of the rate structure may not be submitted to the Board from time to time for its consideration and approval, as circumstances warrant so doing, but it does preclude any general upward adjustments in local-exchange rates, other than the particular adjustments that may be required as a result of the normal regrouping procedures established by the Board in respect of changes in the size of local-exchange service areas.

The Company earned 6.6% on its total average capital outstanding for the year 1965 and it has accordingly reached the maximum of the permissible range we have found to be just and reasonable at this time. Should the Company's earnings exceed that maximum, the Board will require the Company to furnish the Board with its proposals for reductions in the rate structure designed to bring the Company's earnings back within the permissible range we have found to be reasonable at this time.

(g) The Board's Findings with respect to the Main Issues:

Our findings with respect to the main issues in these proceedings may be briefly stated as follows:

(1) In re Northern Electric Company Limited:

On the evidence, the Board finds that, at this time, Bell's investment in Northern Electric is not in fact prejudicial to the interests of Bell's telephone customers; that the prices paid by Bell to Northern Electric are as low as or lower than going prices; that Northern's overall rate of return does not appear to be excessive in comparison with the general average of other manufacturing enterprises of a similar nature and in comparison with the rate of return earned by Western Electric in the United States; that the rate of return earned by Northern on its Bell business is lower than the rate of return earned by Northern on its non-Bell business; that the rate of return earned by Northern on its Bell business is not unreasonable and not much higher than the rate of return earned by Bell as a utility; and that the Board is not of the view that Northern's rate of return on its Bell business should be limited at this time to the rate of return which the Board finds reasonable for Bell.

(2) In re the Permissive Level of Earnings:

Subject to the qualifications set out in detail in section 4(f) above, we find that the overall rate structure of the Company is just and reasonable at this time by reference to a permissive level of earnings ranging from 6.2% to 6.6% on total average capitalization.

(Sgd.) ROD. KERR

(Sgd.) H. H. GRIFFIN

(Sgd.) J. E. DUMONTIER

Ottawa,
May 4, 1966.

56 B.T.C.

La Commission

Can. Transport Commissioners Board

Des Transports du Canada

EN CE QUI CONCERNE la révision relative à La Compagnie de Téléphone Bell du Canada conformément à l'avis de la Commission en date du 22 septembre 1964.

Judgments, orders, regulations and rulings

Cause 955.176

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Cause 955.176

le 4 mai 1966

Audiences publiques tenues à Ottawa les 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 26, 27 et 31 mai et les 1, 2, 3, 16, 17, 18, 21 et 29 juin 1965.

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M. H.H. GRIFFIN,
M. J.E. DUMONTIER,

*Commissaire en chef
Commissaire en chef adjoint
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et

*les municipalités suivantes:
Arvida; Aylmer; Beaconsfield; Belleville;
Beloeil; Blind River; Bracebridge; Brant-
ford; Capreol; Carleton Place; Chatham;
Charlton; Collingwood; Dryden; Duberger;
canton d'York-Est; Elmira; Essex; Exeter;
canton de Falconbridge; Forest Hill; Fort
Frances; Gananoque; Galt; Gravenhurst;
Guelph; Hamilton; Harrow; canton
d'Harwick; Hawkesbury; Hearst; Hespeler;*

Kemptville; Kenora; Kitchener;
 Kingston; Lachine; Leamington;
 London; canton de London; Long
 Branch; Loretteville; Lucerne;
 canton de Markham; Massey; Mimico;
 Mitchell; canton de Muskoka; Mount
 Royal; Newmarket; New Toronto;
 Niagara Falls; Niagara-on-the-Lake;
 North Bay; canton de North Gwillim-
 bury; canton d'Oliver; Onaping
 Improvement District; Orangeville;
 Ottawa; Owen Sound; Paris; Parry
 Sound; Penetanguishene; Picton;
 canton de Pickering; Port Alfred; Port
 Colborne; Preston; Québec; Renfrew;
 Ridgetown; Richmond Hill; Rimouski;
 canton de Rutherford et George
 Island; St. Catharines; St. Thomas;
 Saint-Laurent; Saint-Michel; canton
 de Sandwich-Est; Sandwich-Sud;
 Sarnia; canton de Scarborough;
 Shawinigan; Stoney Creek; Stouff-
 ville; Strathroy; Streetsville;
 Sudbury; Swansea; Tecumseh;
 canton de Thorold; Toronto; canton
 de Toronto; Trenton; canton de
 Vaughan; Verdun; canton de Water-
 loo; Welland; canton de Gwillimbury-
 Ouest; Weston; canton de Widdifield;
 canton de Willoughby; Windsor;
 Woodstock.

MM. R.A. SMITH, c.r. }
 et
 J.G. TORRANCE }
 M. ARCHIBALD ROSS
 MM. FRANK W. CALLAGHAN }
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 C.D.S. ROBERTSON }
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*représentant la United Electrical,
 Radio and Machine Workers of
 America*

*représentant le Parti communiste
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M. G. PRESSEAU

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Québec, Incorporée.*

DÉCISIONS

DE LA COMMISSION:

1. PORTÉE ET NATURE DE LA RÉVISION ENTREPRISE PAR LA COMMISSION AU SUJET DES BÉNÉFICES ANNUELS DE LA COMPAGNIE ET D'AUTRES QUESTIONS:

La Compagnie de Téléphone Bell du Canada a été constituée en société par une loi spéciale du Parlement du Canada, 43 Victoria (1880), chapitre 67, laquelle loi a été modifiée et complétée de temps à autre en vertu des lois suivantes:

45 Victoria	(1882)	chapitre 95
47 Victoria	(1884)	chapitre 88
55-56 Victoria	(1892)	chapitre 67
57-58 Victoria	(1894)	chapitre 108
2 Edward VII	(1902)	chapitre 41
6 Edward VII	(1906)	chapitre 61
10-11 George V	(1920)	chapitre 100
19-20 George V	(1929)	chapitre 93
11-12 George VI	(1948)	chapitre 81
6 Elizabeth II	(1957-1958)	chapitre 39
13-14 Elizabeth II	(1964-1965)	chapitre 69

La Compagnie a relevé de la Commission pour la première fois le 13 juillet 1906*. Pendant les 21 ans qui suivirent, la Compagnie a fait appel quatre fois à la Commission pour obtenir des hausses de taux et de revenus, et ses transactions ont fait l'objet d'un examen public critique lors d'audiences publiques. A la suite des quatre requêtes de la Compagnie, des décisions furent rendues d'abord en 1919, en 1921, en 1922 et en 1927.** A la fin de 1927, la Compagnie exploitait environ 668,000 téléphones et avait atteint des revenus d'exploitation annuels bruts d'environ 33 millions de dollars.

Pendant la période de 22 ans qui suivit pour se terminer en 1949, la structure tarifaire de base de la Compagnie demeura stable et aucune demande de hausse générale ne fut présentée à la Commission. Le nombre de téléphones en

* — 6 Edward VII (1906), chapitre 42, Une loi modifiant la Loi sur les chemins de fer, 1903, et 6 Edward VII (1906), chapitre 61, Une Loi relative à La Compagnie de Téléphone Bell du Canada. Ces deux lois ont été sanctionnées le 13 juillet 1906.

** — 25 C.R.C. 1; 27 C.R.C. 232; 27 C.R.C. 277; et 34 C.R.C. 1.

service a presque atteint 1,600,000 et les revenus d'exploitation annuels bruts de la Compagnie se sont établis à \$107,800,000.

La période de 9 ans qui va de 1950 à 1958, cependant, fut sans précédent et marqua un changement radical. Le nombre de téléphones de la Compagnie s'est accru rapidement et a atteint un total de 3,100,000, ce qui signifie qu'il a presque doublé en 9 ans et qu'il a accusé une augmentation d'une fois et demie aussi grande que pendant la période précédente de 22 ans. La Compagnie a triplé le capital moyen annuel afin de financer cette immense expansion; en effet, de \$337,900,000 qu'il était en 1949 il est passé à \$1,011,500,000 en 1958. Pendant cette même période de neuf ans, la Commission a tenu six audiences publiques, 82 jours en tout, afin de traiter de quatre demandes faites par la Compagnie en vue d'une hausse générale de ses taux et du niveau de ses bénéfices. Ces audiences ont permis, sans interruption, d'examiner et de reviser au grand jour tous les aspects de l'activité de la Compagnie se rapportant aux fonctions statutaires de la Commission en vue d'établir un échelonnement juste et raisonnable des tarifs téléphoniques exempt de toute discrimination ou de préférence non justifiée. A la fin de cette période de neuf ans, les revenus d'exploitation annuels bruts avaient plus que triplé, ayant atteint presque \$328,800,000. Des décisions concernant ces quatre demandes d'augmentation furent rendues en 1950, en 1951 et en 1958.***

Durant la période de six ans qui s'écoula depuis la dernière décision, en date du 10 octobre 1958, la Compagnie a connu un nouvel essor rapide. Le nombre total de téléphones en service a atteint 4,300,000 à la fin de 1964 et les revenus d'exploitation annuels bruts, \$542,800,000. D'autres changements se sont produits en ce qui concerne la situation de la Compagnie durant cette période de six ans. A la lumière de tous ces changements, la Commission a conséquemment estimé qu'un examen public supplémentaire était justifié dans l'intérêt du public et a donc publié l'avis suivant en date du 22 septembre 1964:

"Durant la période de temps qui a suivi la date à laquelle la Commission des transports du Canada avait autorisé un ajustement général des taux et taxes de la Compagnie de téléphone Bell du Canada, soit depuis le 10 octobre 1958, la Commission a été renseignée d'une façon régulière au sujet des recettes annuelles et de toute autre matière se rapportant à ladite Compagnie.

"L'étude périodique faite par le personnel de la Commission et les données présentées par la Compagnie de temps à autre démontrent que certains changements sont intervenus dans les capitaux engagés, les recettes, les dépenses, le service de la dette, les paiements sur dividendes et la retenue de recettes de la Compagnie si bien qu'il semble dans l'intérêt public que la Commission tienne

*** — 40 J.O.R. & R. 159; 67 C.R.T.C. 98; 68 C.R.T.C. 127; 68 C.R.T.C. 359; 76 C.R.T.C. 267; et 78 C.R.T.C. 1.

une audience publique pour étudier les questions se rapportant à l'état des capitaux engagés, des recettes, des dépenses, du service de la dette, des paiements sur dividendes, de la retenue de recettes de la Compagnie et pour examiner le niveau admis des recettes et la base devant servir à l'établissement de ce niveau de taxes téléphoniques.

“En conséquence, la Commission tiendra à Ottawa une audience publique afin d'étudier ces questions, en venir aux conclusions qui s'imposent et rendre les ordonnances ou prendre les dispositions qu'elle jugera opportunes.

“La Commission n'a pas l'intention pour le moment de faire enquête au sujet de la convenance des taxes actuelles, étant donné que les taxes actuelles ou toute révision d'icelles qui pourrait être présentée par suite de l'enquête de la Commission seraient étudiées ultérieurement, s'il y a lieu.

“En vertu du présent avis, la Compagnie de téléphone Bell du Canada est partie aux procédures, et la Commission tient à ce que tous les autres intéressés désireux d'assister à cette audience présentent au Secrétaire de la Commission, avant le 30 octobre 1964, un avis par écrit à cette fin, et transmettent une copie à monsieur P.C. Venne, Avocat général de ladite Compagnie, à ses bureaux situés au numéro 1050 Beaver Hall Hill, Montréal 1, P.Q.

“Dans un délai de trente jours de la date fixée pour la réception des comparutions, la Compagnie devra présenter à la Commission ainsi qu'à tous les intéressés ayant signifié leur intention de comparaître, un exposé des raisons qu'elle se propose de soumettre à l'audience à l'appui du niveau admis des recettes que la Compagnie estime être justes et raisonnables dans les circonstances, ainsi que la base sur laquelle un tel niveau de recettes devrait être autorisé.

“Dans un délai de trente jours de la présentation de l'exposé de la Compagnie, ou dans tout autre délai que pourra fixer la Commission au cours de la présente enquête. Le tout devra être envoyé par la poste ou remis personnellement au Secrétaire de la Commission en ayant soin d'en transmettre copie à monsieur P.C. Venne, Avocat général de ladite Compagnie, à ses bureaux situés au numéro 1050 Beaver Hall Hill, Montréal 1, P.Q.

“Après avoir reçu les réponses des intéressés, la Commission aura peut-être à donner certaines directives au sujet de tous autres renseignements supplémentaires pertinents, que la Compagnie ou les parties intéressées pourraient être appelées à présenter à la Commission, après quoi la Commission fixera la date et le lieu des séances au cours desquelles la Compagnie et les intéressés seront priés de soumettre leur mémoire concernant les points principaux qu'ils se proposent de mettre en preuve au cours de cette audience.”

Des copies de l'avis furent expédiées à toutes les municipalités et à tous les autres corps directeurs semblables dans les régions desservies par la Com-

pagnie, dans les provinces d'Ontario et de Québec, ainsi qu'à la Fédération canadienne des maires et municipalités, et à tous les autres intéressés.

Des audiences publiques traitant de ces questions ont été tenues à Ottawa à partir du 4 mai 1965 et se sont terminées le 29 juin 1965, c'est-à-dire après 22 jours de séances, y compris le plaidoyer de l'avocat.

Comme il a été énoncé plus haut, les tarifs demandés par la Compagnie sont soumis à l'approbation de la Commission depuis 1906. La dernière hausse générale de ces tarifs fut autorisée en vertu de l'ordonnance n° 95930, en date du 10 octobre 1958, à la suite de la décision de la Commission qui a été rendue le même jour afin d'autoriser, à la Compagnie, un niveau des bénéfices de \$2.43 par action. Lors des délibérations en cours, la Compagnie a allégué qu'elle devrait être autorisée à réaliser un taux général de rendement de 7 p. 100 sur le capital total moyen en circulation, rendement qui lui procurerait une rémunération d'environ 8½ p. 100 du capital effectif moyen.

Avant de traiter des questions principales dans la révision des affaires de la Compagnie entreprise par la Commission de sa propre initiative, nous résumons ci-après l'essentiel des témoignages de toutes les parties participant à la révision. L'absence d'un point quelconque des témoignages ou du plaidoyer dans ce résumé n'implique pas que la Commission n'en a pas tenu compte dans ses conclusions. La Commission a apporté une grande attention à tous les témoignages dont elle a été saisie, aussi bien aux pièces justificatives qu'aux témoignages oraux et au plaidoyer dont la transcription atteint environ 3,900 pages.

2. RÉSUMÉ DES PREUVES INVOQUÉES

(i) PAR LA COMPAGNIE LORS DES AUDIENCES.

Les raisons principales invoquées par la Compagnie pour appuyer sa demande d'un niveau autorisé de bénéfices qu'elle juge juste et raisonnable en l'occurrence, ainsi que les bases d'après lesquelles ces bénéfices devraient être autorisés selon elle, sont résumées dans les rubriques suivantes, qui comprennent aussi le témoignage de la Compagnie relativement à tous les changements importants qui se sont produits depuis la fin de 1958 à l'appui de cette réclamation:

- a) Etat des revenus et dépenses (de 1959 à 1964).
- b) Revue des opérations — revenus et dépenses (de 1959 à 1964).
- c) Dépenses de construction (réelles de 1959 à 1964, prévues de 1965 à 1969).
- d) Contrat de service avec l'American Telephone and Telegraph Company.
- e) Plans de pension de la Compagnie.
- f) Amortissement et changements dans les provisions pour amortissement.
- g) Revue et prévisions économiques générales.

- h) Relations entre la Compagnie Bell et la Compagnie Northern Electric, Limitée.
- i) Rendement raisonnable du capital global de la Compagnie.
- j) Appréciation de la Compagnie par les bailleurs de fonds.
- k) Besoins de bénéfices de la Compagnie.

Les tableaux paraissant dans ce résumé ont été établis par le personnel de la Commission d'après les pièces justificatives déposées par la Compagnie au cours de l'audience. Chaque tableau indique les sources d'après lesquelles il a été dressé.

a) État des revenus et dépenses (de 1959 à 1964)

Un état sommaire et comparatif des revenus et dépenses pour les six ans qui suivirent l'autorisation de la Commission relative au niveau actuel des bénéfices est établi au tableau numéro I ci-dessous. Le capital global investi dans la Compagnie selon la propre définition que la Compagnie donne de l'investissement en capital, c'est-à-dire le revenu global, le revenu net par action, et le taux de rendement sur le capital global investi, pour la période de sept ans à compter de 1958 jusqu'à 1964, est indiqué au tableau numéro II ci-dessous.

Les revenus provenant du service interurbain se sont accrus plus rapidement que ceux du service local; en effet, ils sont passés de 32.1 p. 100 en 1959 à 34.6 p. 100 en 1964. Les dépenses globales d'exploitation se sont accrues moins rapidement que les revenus durant la période de six ans qui s'est terminée en 1964, mais il y eut des changements dans les proportions relatives de certaines dépenses d'exploitation. Jusqu'en 1963 l'entretien constituait la plus forte dépense, mais à partir de 1964 l'amortissement l'a remplacé dans cette catégorie.

Les montants versés à l'American Telephone and Telegraph Company en vertu du contrat de service, se sont élevés de \$3,500,000 en 1959 à \$5,100,000 en 1964. Durant la même période, la part du porte-feuille de la Compagnie Bell constituée d'actions en circulation de la Northern Electric a augmenté de 90 p. 100 à 100 p. 100 tandis que les dividendes annuels de ces actions passaient de \$5. par action au taux actuel de \$6.50.

Entre 1959 et 1964, le coût des nouvelles obligations émises au Canada par la Compagnie a varié de 5.46 p. 100 à 6.43 p. 100 après déduction des dépenses. Deux émissions ont été lancées sur le marché américain à un peu moins de 5 p. 100. Les intérêts et les impôts ont augmenté plus rapidement que les revenus et ont ainsi neutralisé dans une certaine mesure l'accroissement des revenus nets d'exploitation.

TABLEAU N° 1 ÉTABLI PAR LA COMMISSION

État des revenus et dépenses de la Compagnie de Téléphone Bell du Canada pour la période 1959-1964.

Ligne	Catégorie	En millions de \$ (arrondi aux plus proches \$100,000)						Augmentation moyenne annuelle de 1964 par rapport à 1959
		1959	1960	1961	1962	1963	1964	
1.	Total des revenus d'exploitation	376.6	404.8	433.7	471.0	503.0	542.8	7.6%
2.	Total des dépenses d'exploitation	256.2	270.4	282.5	301.9	325.8	343.4	6.0%
3.	Revenus nets d'exploitation	120.4	134.4	151.2	169.1	177.2	199.4	10.6%
4.	Total des impôts imputables à l'exploitation	59.1	64.7	73.5	81.6	84.8	96.0	10.2%
5.	Revenu d'exploitation	61.3	69.7	77.7	87.5	92.3	103.4	11.0%
6.	Autres revenus — nets (1)	7.7	7.0	6.7	7.4	8.4	9.4	4.2%
7.	Revenu total avant intérêts	69.0	76.7	84.4	95.0	100.8	112.8	10.4%
8.	Intérêts de la dette (2)	18.7	23.2	26.7	29.7	32.5	35.1	13.4%
9.	Revenu net	50.3	53.5	57.7	65.3	68.3	77.7	9.1%

Remarques: (1) Ces chiffres comprennent les dividendes de la Compagnie Northern Electric, Limitée, lesquels se sont élevés à \$3,600,000 en 1959 et à \$5,700,000 en 1964.

(2) Il s'agit surtout de l'intérêt sur la dette à long terme, le taux moyen s'étant élevé de 4 p. 100 en 1959 à 4.8 p. 100 en 1964.

Document original: Pièce n° B-2 de la Compagnie Bell.

TABEAU N° II ÉTABLI PAR LA COMMISSION
CAPITAL, REVENUS ET TAUX DE RENDEMENT - LA COMPAGNIE DE TÉLÉPHONE BELL DU CANADA

*Les montants ci-dessous figurent en millions de \$ (arrondis aux plus
proches \$100,000)*

ANNÉE	MONTANTS MOYENS DU CAPITAL EN CIRCULATION					REVENU TOTAL (1)	REVENU NET PAR ACTION	TAUX DE RÉMUNÉ- RATION SUR LE CAPITAL TOTAL
	CAPITAL- ACTIONS	PRIME	BÉNÉFICES RÉINVESTIS	DETTE À LONG TERME	TOTAL			
1958	452.3	138.4	36.0	384.9	1,011.5	53.6	\$2.15	5.30%
1959	506.5	155.9	42.7	451.4	1,156.6	68.2	\$2.48	5.90%
1960	530.1	163.8	49.6	516.7	1,260.2	75.7	\$2.52	6.01%
1961	577.1	187.0	55.4	571.1	1,390.6	83.5	\$2.50	6.01%
1962	611.1	205.8	64.7	620.6	1,502.2	94.1	\$2.66	6.26%
1963	661.2	232.6	74.8	670.8	1,639.4	99.8	\$2.58	6.09%
1964(2)	713.6	258.1	86.2	712.1	1,770.0	111.3	\$2.71	6.32%

Remarques: (1) Revenu total tel que défini: Revenu total avant paiement des intérêts, moins autres intérêts.

(2) Les chiffres pour l'année 1964 sont réels pour onze mois et prévus pour un mois.

Documents originaux: Lettre de la Compagnie Bell adressée à la Commission et aux parties intervenantes, en date du 22 décembre 1964; pièce n° B-2 de la Compagnie Bell et rapports annuels de la Compagnie Bell de 1958 à 1963.

b) Revue des opérations, des revenus et des dépenses (de 1959 à 1964)*(1) Service:*

Depuis le début de 1959 jusqu'à la fin de 1964, le nombre total des téléphones de la Compagnie est passé de 3,100,000 à 4,300,000. Ceci s'est reflété dans l'accroissement du nombre de foyers desservis à l'intérieur du territoire de la Compagnie (en effet, il est passé de 87 p. 100 à 92 p. 100) et dans l'accroissement du nombre de téléphones par 100 habitants, c'est-à-dire 35 à 40. Soixante-dix pour cent de l'accroissement concernait le service domiciliaire. L'accroissement global de 1,200,000 téléphones a nécessité l'installation d'environ 5,700,000 téléphones. Le nombre élevé de déconnexions, soit 4,500,000 téléphones, reflète le haut degré de mobilité de la société actuelle et entraîne des frais d'entretien, d'amortissement et de construction plus élevés qu'autrefois. Pendant cette période de six ans on a dû installer environ cinq téléphones, en moyenne, afin de réaliser un gain net de la valeur d'un téléphone.

Depuis 1959, l'accumulation des commandes non remplies en vue d'un nouveau service ou pour une catégorie supérieure de service a été presque éliminée. Les commandes en souffrance ne représentent environ que 0.03 p. 100 des téléphones en service maintenant.

Les messages interurbains se sont accrus durant la période, soit de 138 millions à 181 millions; malgré l'élimination de l'accroissement des messages possibles grâce à la mise en vigueur des services à secteur étendu et du service interurbain planifié. La mise au point continue de service de ligne privée et la concurrence des services a diminué le taux d'accroissement des messages interurbains. Au même moment, les réductions des tarifs interurbains, effectuées au cours des six dernières années, ont contribué à l'accroissement du nombre des messages.

Le programme de conversion à l'automatique de la Compagnie est presque terminé; en effet, 99 p. 100 des téléphones sont munis de cadrans comparativement à 90 p. 100 au début de 1959. La proportion des appels faits au moyen de la composition interurbaine directe est passée de 9 p. 100 des messages en 1959 à 43 p. 100 en 1964. A la fin de 1964, la composition interurbaine directe pouvait être effectuée à partir de 67 p. 100 des téléphones tandis qu'elle pouvait être reçue par 98 p. 100 des téléphones de la Compagnie. Environ la moitié des appels qui sont faits par l'abonné sont actuellement identifiés et enregistrés au moyen d'un équipement automatique et la moyenne de temps requise pour établir une communication interurbaine a été réduite de 72 secondes à 55 secondes, principalement à cause de l'automatisation.

Durant la période de six ans présentement à l'étude, le pourcentage des téléphones principaux bénéficiant du service individuel s'est élevé de 51 p. 100 à 74 p. 100 de l'ensemble des téléphones.

A l'heure actuelle, dans les agglomérations urbaines, plus de 85 p. 100 des nouvelles installations de téléphones principaux de résidence sont raccordées au service de ligne individuelle.

On a beaucoup fait durant cette période afin d'améliorer la transmission, la sûreté de fonctionnement et l'apparence des installations et de l'équipement, au moyen de câbles pressurisés, de câbles enfouis, d'équipement de vérification automatique et de générateurs diesel de secours. La continuité du service a été assurée par des mesures de protection telles la construction de voies d'évitement interurbaines, de centres de commutation interurbaine suppléants, et de centres de commande d'organisation du réseau.

Durant la dernière décennie, plus de quarante nouveaux services ont été ajoutés afin de répondre aux besoins des abonnés. Ces services comprennent le Centrex, le service interurbain planifié, le service de téléscrip-teurs à com-mutation automatique et le service Data-Phone.

Du début de 1959 à la fin de 1964, un nouveau service à secteur étendu a été inauguré dans 492 centraux téléphoniques comprenant 3,500,000 télé-phones. A la fin de 1964, 94 p. 100 de tous les téléphones disposaient du service à secteur étendu relié à un ou plusieurs centraux voisins. Les petites agglomérations ont bénéficié de l'établissement de 190 nouveaux centraux ainsi que de la réduction du nombre de centraux de type manuel de 363 à 55. Le nombre moyen d'abonnés de lignes communes fut réduit de 7 à 5 et le pourcentage d'abonnés utilisant des lignes à plus de six abonnés fut réduit de 75 p. 100 à 21 p. 100.

De nouveaux centraux furent établis dans une trentaine de localités du Nord du pays, depuis la frontière du Manitoba et de l'Ontario jusqu'à l'océan Atlantique.

La Compagnie a affirmé que la valeur du service téléphonique avait relativement augmenté depuis 1958. Le nombre d'heures de travail requis par un employé de l'industrie manufacturière en paiement d'un mois de service local de résidence dans 19 des plus grandes villes du territoire desservi avait été réduit d'environ cinq heures qu'il était en 1945 à environ deux heures et demie en 1964. La Compagnie a aussi soutenu que sur une base semblable d'heures de travail les Nord-Américains bénéficient d'un service téléphonique à un coût réel bien moindre qu'il en coûte aux abonnés de la plupart des principales villes du monde. Sur un indice de 100 pour une moyenne de 46 villes des États-Unis, les indices comparatifs pour les autres zones et villes s'établissent comme suit: 115 pour l'Ontario et le Québec (pour une moyenne de 19 villes); 225 pour Zurich, en Suisse; 274 pour Sydney, en Australie et pour Londres, en Angleterre; 420 pour Tokyo, au Japon; et 759 pour Paris, en France.

(2) Revenus:

Les détails des revenus d'exploitation de la Compagnie pour la période de 1959 à 1964 paraissent au tableau III ci-dessous établi par la Commission.

La Compagnie a d'abord déclaré que son objectif était de mettre en valeur dans la plus grande mesure les sources de revenus permises par la structure tarifaire actuelle. De 1959 à 1964, les revenus se sont accrus à un taux moyen annuel de 7.6 p. 100, soit d'une manière un peu plus rapide que le taux d'accroissement moyen annuel du produit national brut qui fut de 5.9 p. 100. Au même moment, les revenus par \$1,000 d'installations ont diminué de \$265 à \$244, ce qui reflète des dépenses très élevées en capital pour l'expansion, l'amélioration et le remplacement des installations.

On a prétendu que la Compagnie était maintenant exposée à trois éléments de risques croissants dans ses revenus, à savoir:

- a) le risque provenant du haut niveau d'expansion téléphonique;
- b) le risque provenant de la forte proportion de revenus retirés du service interurbain; et
- c) le risque provenant des changements technologiques qui mettent à la disponibilité de l'abonné une plus grande variété de services.

On a souligné également que des changements relativement faibles dans les revenus avaient désormais un plus grand effet sur les bénéfices. En effet, un changement de 1 p. 100 dans les revenus de 1964 équivalait à 2.2 p. 100 du rendement du capital global, ou de 3.1 p. 100 du rendement de l'avoir des actionnaires.

On a déclaré que l'accroissement des revenus de \$377,000,000 en 1959 à \$543,000,000 en 1964, était principalement dû aux changements survenus dans le volume des affaires plutôt qu'à des changements dans les prix.

(3) Dépenses:

Les dépenses d'exploitation pour la période de 1959 à 1964 paraissent en détail au tableau IV ci-dessous établi par la Commission.

La Compagnie a déclaré qu'elle avait fait en sorte de comprimer les dépenses de façon telle que leur taux d'accroissement demeure au-dessous de celui des revenus. Les dépenses d'exploitation se sont accrues à un taux moyen annuel de 6 p. 100 en comparaison d'un accroissement moyen annuel de 7.6 p. 100 pour les revenus. Au cours de cette même période, il y eut un fléchissement de 68 p. 100 à 63 p. 100 du coefficient d'exploitation et de \$180 à \$154 par \$1,000 d'outillage téléphonique dans les dépenses d'exploitation. Les dépenses d'exploitation ont augmenté de 34 p. 100 durant cette période de six ans, tandis que le total des impôts a augmenté de 45 p. 100. Les montants

TABLEAU N° III ÉTABLI PAR LA COMMISSION
REVENUS D'EXPLOITATION POUR 1959-1964 - LA COMPAGNIE DE TÉLÉPHONE BELL DU CANADA

ANNÉE	SERVICE LOCAL (1)		SERVICE INTERURBAIN (2)		AUTRES (NET) (3)		TOTAL DES REVENUS (4)		REVENUS D'EXPLOITATION EN DOLLARS PAR \$1000 D'OUTILLAGE TÉLÉPHONIQUE
	Millions de dollars*	% du total	Millions de dollars*	% du total	Millions de dollars*	% du total	Millions de dollars*	% d'augmentation sur l'année précédente	
1959	233.6	62.0%	121.0	32.1%	22.0	5.9%	376.6	14.5%	\$265
1960	250.9	62.0%	130.0	32.1%	24.0	5.9%	404.8	7.5%	\$254
1961	269.5	62.1%	138.4	31.9%	25.8	6.0%	433.7	7.1%	\$249
1962	289.6	61.5%	153.8	32.7%	27.6	5.8%	471.0	8.6%	\$248
1963	308.9	61.4%	165.1	32.8%	29.0	5.8%	503.0	6.8%	\$244
1964	325.5	60.0%	187.9	34.6%	29.4	5.4%	542.8	7.9%	\$244

Remarques: * Arrondi aux proches \$100,000

- (1) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 6.9 p. 100
- (2) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 9.2 p. 100
- (3) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 6 p. 100
- (4) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 7.6 p. 100

Documents originaux: Pièces no B-2, B-18 et B-19 de la Compagnie Bell.

TABLEAU N° IV ÉTABLI PAR LA COMMISSION
DÉPENSES D'EXPLOITATION POUR 1959-1964 — LA COMPAGNIE DE TÉLÉPHONE BELL DU CANADA

ANNÉE	MONTANTS VERSÉS AU PERSONNEL (1) AMORTISSEMENT (2)				AUTRES (3)		DÉPENSES TOTALES (4)		DÉPENSES D'EXPLOI- TATION EN DOLLARS PAR \$1000 D'OUTILLAGE TÉLÉPHONIQUE
	Millions de dollars*	% du total	Millions de dollars*	% du total	Millions de dollars*	% du total	Millions de dollars*	% d'augmentation sur l'année précédente	
1959	131.0	51.1%	64.9	25.3%	60.4	23.6%	256.2	7.1%	\$180
1960	134.5	49.7%	72.1	26.7%	63.9	23.6%	270.4	5.5%	\$170
1961	136.7	48.4%	78.9	27.9%	66.9	23.7%	282.5	4.5%	\$162
1962	142.7	47.3%	86.9	28.8%	72.3	23.9%	301.9	6.9%	\$159
1963	150.5	46.2%	97.3	29.9%	78.0	23.9%	325.8	7.9%	\$158
1964	157.0	45.7%	106.2	31.0%	80.1	23.3%	343.4	5.4%	\$154

Remarques: * Arrondi aux plus proches \$100,000

- (1) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 3.7 p. 100
 (2) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 10.4 p. 100
 (3) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 5.8 p. 100
 (4) L'augmentation moyenne annuelle, de 1964 sur 1959, fut de 6 p. 100

Documents originaux: Pièces de la Compagnie Bell n° B-2, B-20 et B-21.

versés au personnel, par \$1,000 d'outillage téléphonique, ont fléchi de \$92 à \$71 durant cette période.

La Compagnie a souligné le fait que le nombre d'employés est maintenant inférieur à celui d'il y a six ans, malgré un gain de 1,200,000 téléphones, et que ceci était une conséquence directe de la compression des frais de main-d'œuvre grâce à l'automatisation, l'amélioration du matériel, de l'outillage et des méthodes de travail. Il en est résulté un accroissement de la valeur totale de l'outillage téléphonique par employé, qui était de \$41,500 à la fin de 1959, et atteignait \$65,000 à la fin de 1964. C'est ainsi que les montants relativement faibles versés au personnel ont été partiellement contrebalancés par des frais annuels plus élevés pour le service du capital investi dans les installations. Étant donné le haut niveau d'automatisation et la plus grande dépendance de la main-d'œuvre à l'égard du capital dans l'exercice de la tâche à accomplir, il est plus difficile aujourd'hui d'adapter la main-d'œuvre aux changements que connaissent les conditions économiques. La Compagnie estime que les montants versés au personnel ont maintenant tendance à devenir moins flexibles.

Les frais d'amortissement ont augmenté de \$65,000,000 en 1959 pour atteindre \$106,000,000 en 1964, soit de 25 p. 100 à 31 p. 100 des dépenses globales. Par rapport à chaque tranche de \$1,000 d'installation téléphonique, cette augmentation fut de \$46 à \$48. La moins-value des installations, due au rythme rapide de l'évolution technologique actuel et au déclassement technique immédiat ou futur, a tendance à surpasser l'usure normale d'un bien. Étant donné que les frais d'amortissement représentent un coût fixe, les dépenses totales d'exploitation deviennent moins flexibles à mesure que les frais d'amortissement s'accroissent. Selon la Compagnie, ceci constitue un risque croissant, du fait que l'amortissement ne peut être l'objet d'une réduction ou d'un contrôle immédiat, dans le cas où les revenus diminueraient.

Quoique les autres dépenses aient augmenté de \$60,000,000 en 1959 pour atteindre \$80,000,000 en 1964, elles ont diminué de \$42 à \$36 par \$1,000 d'installation téléphonique.

Durant cette période, la Compagnie a aussi fait un usage efficace des nouveaux ordinateurs et des nouvelles techniques d'ordination, soit pour améliorer le service ou pour contrôler les dépenses grâce à une efficacité accrue.

c) Frais de construction (réels, de 1958 à 1964, prévus de 1965 à 1969)

Le programme de construction de la Compagnie se continue en rapport avec les besoins des nouveaux abonnés et des abonnés actuels et constitue, depuis plusieurs années, le programme d'immobilisations permanent le plus vaste qu'ait entrepris une compagnie au Canada. Les frais de construction se sont élevés à \$196,000,000 en 1959 et, à l'exception de 1961, elles ont augmenté graduellement chaque année pour atteindre un niveau de \$234,000,000

en 1963 et en 1964. Le total des dépenses pour cette période de six ans fut de l'ordre de \$1,250,000,000, ou plus de deux fois le coût de la construction de la Voie maritime du St-Laurent. L'ensemble des installations téléphoniques a augmenté d'environ 70 p. 100 pendant la période de six ans, d'environ \$1,400,000,000 à plus de \$2,300,000,000.

L'ampleur du programme de construction est déterminé par les besoins croissants de la demande de service et par le désir d'assurer un service efficace aux abonnés actuels, mais l'envergure du programme présuppose aussi un niveau approprié de bénéfices afin d'attirer les capitaux supplémentaires requis.

La Compagnie a aussi déclaré qu'elle ne voulait ni n'avait l'intention de faire de dépenses qui n'étaient pas nécessaires. Tout équipement ajouté au réseau doit être compatible avec les installations existantes et on doit l'acquiesce le plus économiquement possible. A cet égard, la Compagnie a déclaré que si elle réussissait financièrement à effectuer le travail voulu dès le départ, sans être nécessairement celui dont le coût initial est le plus bas, le coût moyen serait moindre par la suite.

La préparation du programme de construction commence au niveau du district, de la division et de la zone; elle est ensuite résumée, analysée et évaluée afin de répondre aux exigences croissantes, d'assurer le service actuel et d'améliorer l'équipement et le service actuel, d'une manière suffisamment souple pour pouvoir faire face aux changements éventuels. La consolidation totale des divers éléments du programme est ultérieurement révisée à la lumière des objectifs d'ensemble du service, des bénéfices qu'ils peuvent apporter et des modifications possibles touchant l'ampleur ou la période d'exécution.

Les acquisitions d'installations téléphoniques doivent être prévues bien à l'avance, au moins deux ans dans le cas des bâtiments et de l'appareillage de central. C'est pourquoi on apporte une attention particulière à l'analyse permanente des changements du milieu de chaque section de chaque circonscription téléphonique afin de s'assurer que les prévisions soient aussi sûres que possible.

Durant les six dernières années, les dépenses de construction pour les cinq catégories principales d'installations furent telles qu'indiquées ci-après:

Catégorie	Pourcentage total approximatif	Dépenses moyennes annuelles en millions de \$
Équipement général	4%	\$ 7.5
Installations et bâtiments	8%	15.5
Réseau pour l'extérieur	25%	62.3
Équipement de postes	22% – 31%	58.4
Équipement de central	33%	70.2

Il y eut une tendance à la hausse dans les dépenses de construction et d'équipement de postes, soit de \$42,500,000 ou 22 p. 100 du total en 1959, à plus de \$72,000,000 ou 31 p. 100 du total en 1964. Cette tendance à la hausse est en partie due à la mise en service d'un certain nombre d'articles plus modernes, plus complexes et plus dispendieux pour répondre aux demandes de service, et en partie à la mobilité croissante des abonnés et au nouvel aménagement des secteurs commerciaux de la plupart des villes importantes.

Les dépenses de construction pour l'équipement de central se sont élevées de \$65,000,000 en 1959 à environ \$79,000,000 en 1964, en partie à cause de l'accroissement des circuits interurbains et en partie à cause de la conversion continue du service manuel au service automatique. Un autre facteur de cette tendance à la hausse est l'emploi accru du matériel téléphonique local par l'abonné, emploi qui a augmenté à un taux d'environ 2 p. 100 par année.

La raison primordiale du programme continu de construction est de répondre à l'accroissement. De plus, on a dû dépenser environ \$25 par année pour chaque \$1,000 d'installations afin de remplacer les installations endommagées, de répondre aux déplacements des abonnés et de mettre en œuvre les grands projets publics d'amélioration. Ces dépenses représentent environ 25 p. 100 des dépenses de construction annuelles totales; bien que ces dépenses ne rendent pas les installations plus aptes à produire des revenus, elles sont toutefois nécessaires au maintien du service. Le programme de construction doit aussi assurer la continuité du service dans les situations critiques, au moyen de voies de déviation, de voies d'emprunt, de canaux de protection, et ainsi de suite.

La Compagnie affirme qu'il y a une corrélation entre la recherche et la mise au point du service et du nouvel équipement d'une part, et les exigences du public d'autre part, mais ceci ne signifie pas que tout l'équipement est automatiquement mis au rancart. Une considération fondamentale sur la mise en service de nouvel équipement réside dans le fait que celui-ci doit pouvoir fonctionner de pair avec l'équipement existant dans l'ensemble du réseau. La Compagnie déclare qu'elle n'entreprend aucun nouveau service ni aucune amélioration à moins qu'une étude complète n'ait démontré qu'il y a des avantages économiques à long terme et des avantages de service à le faire. De tels programmes sont mis en œuvre graduellement sur une période de plusieurs années. Par exemple, la conversion de l'équipement manuel en équipement automatique continue de s'effectuer depuis plus de 40 ans. Les besoins essentiels de la modernisation représentent approximativement 15 p. 100 de l'ensemble du programme de construction. Les répercussions du programme de perfectionnement de la Compagnie peuvent être illustrées par le fait que, sauf pour l'équipement pas à pas des centraux presque aucune pièce d'équipement qui est manufacturée actuellement pour satisfaire le service actuel n'était disponible ou manufacturée en 1950.

La Compagnie prévoit que les besoins changeants des abonnés et les progrès technologiques qu'elle a connus durant les six dernières années se répéteront durant les cinq prochaines années. Les dernières prévisions indiquent une tendance à la hausse continue des immobilisations, d'environ \$231,000,000 en 1965 jusqu'à peu près \$270,000,000 en 1969, soit un total d'environ \$1,250,000,000 durant cette période.

Durant le contre-interrogatoire le témoin de la Compagnie a déclaré que le programme de construction est continuellement examiné afin que les nouvelles immobilisations assurent à la Compagnie un taux de rendement satisfaisant. Il a de plus déclaré que le taux de rendement des services concurrentiels était vérifié de temps en temps selon une méthode de sondage et que les témoignages obtenus à la suite de ces vérifications indiquent un taux de rendement d'au moins 7 p. 100. Quant à la possibilité d'une diminution des dépenses de construction durant une récession économique, le témoin a prévu qu'on pourrait réaliser une diminution des dépenses d'environ 15 p. 100, mais il a insisté sur le fait que la réalisation des projets requerrait une période de deux ans.

d) Contrat de service avec l'American Telephone and Telegraph Company.

Le contrat de service actuel est entré en vigueur le 1^{er} juillet 1949. Les services les plus importants rendus à la Compagnie Bell par la société américaine sont les suivants:

- a) la poursuite de recherches, études et expériences fondamentales en téléphonie;
- b) l'engagement de fournir conseils et assistance en matière de génie, de trafic, d'équipement, d'affaires commerciales, de comptabilité, et d'autres questions se rapportant à l'industrie du téléphone; et
- c) l'octroi de licences non exclusives par la société américaine à la Compagnie Bell en vertu des nombreux brevets canadiens actuels et futurs.

La Compagnie Bell paie 1 p. 100 de revenus provenant des services locaux et interurbains, moins les créances irrécouvrables, pour tous les services et les droits qu'elle reçoit en vertu du contrat de service. Les paiements effectués à la société américaine par les compagnies exploitantes Bell aux États-Unis sont établis d'après la même base.

On a présenté ci-dessous un témoignage détaillé relativement au contrat de service et aux services disponibles, et relativement aux allocations des frais encourus par la société américaine pour les services rendus conformément au contrat de service et aux contrats de licence. Ces frais sont établis conformément au Système uniforme de comptabilité prescrit par la Federal Communications Commission des États-Unis.

Selon une analyse détaillée des coûts alloués à la Compagnie Bell, la société américaine a encouru des dépenses nettes de \$5,111,013 en 1964 pour

les services rendus à la Compagnie Bell. En retour, la société américaine a reçu pour la même année, un montant équivalant à \$4,714,873 en devises américaines, de la Compagnie Bell.

La Compagnie Bell a apporté un témoignage pour démontrer la valeur retirée du contrat de service. On a déclaré que les groupes de son siège social seraient grandement désavantagés s'ils n'avaient pas accès aux connaissances et à l'expérience communes de l'American Telephone and Telegraph Company (A.T.&T.) et ses vingt-trois compagnies exploitantes. La Compagnie Bell est à même de choisir les connaissances et les expériences qu'elle juge utiles et l'A.T. & T., n'a fait aucune tentative pour diriger ou imposer ses vues à la Compagnie Bell. Un avantage important découlant du contrat de service est que la Compagnie Bell et les vingt-trois compagnies exploitantes de l'A.T. & T. peuvent, en tant que groupe, réaliser des projets qu'aucune société ne pourrait entreprendre seule.

On a apporté des exemples d'avantages découlant de ce plan. Ceux-ci comprenaient des plans de mesure relativement aux bénéfices, au coût, au service, à la qualité, à la productivité, et à d'autres sujets; un programme conjoint d'éducation et de formation des employés; le détachement d'employés de la Compagnie Bell auprès des laboratoires Bell, ou comme membre du personnel de l'A.T. & T., sans dépenses de salaire pour la Compagnie Bell; et enfin accès aux procédures, aux méthodes et aux renseignements techniques.

Une part des avantages retirés du contrat de service par la Compagnie Bell peut être évaluée en dollars. On a en effet évalué que la création et la publication des différents renseignements techniques, conformément au contrat, auraient coûté plus de \$1,500,000 par année à la Compagnie Bell. La mise au point du système d'ordination des comptes des abonnés au moyen d'un ordinateur à fort débit aurait requis des dépenses supplémentaires de l'ordre d'environ \$200,000 à défaut de ce contrat. Les changements apportés aux méthodes techniques relatives au réseau extérieur, méthodes qui ont été mises au point aux laboratoires Bell et à l'A.T. & T., pendant plusieurs années, ont permis à la Compagnie Bell d'économiser jusqu'à \$8,800,000 en capitaux et \$50,000,000 en frais d'entretien sur une période de 18 ans. On a estimé qu'en raison de la clause relative au cours d'apprentissage systématique pour les téléphonistes du service interurbain on épargnait environ \$90,000 grâce à une réduction des heures d'enseignement. On a estimé que les adaptations de plans établis aux laboratoires Bell et que la Compagnie a appliqués à l'équipement de central, avaient une valeur de \$500,000. On a estimé que l'usage, à titre gracieux, de licences brevetées pour l'équipement, pour lesquelles la Compagnie aurait payé des redevances à défaut de contrat de service, représentait \$1,500,000 annuellement en 1963 et 1964.

La Compagnie Bell fournit des services semblables, conformément aux contrats de service, à huit autres réseaux de téléphone importants au Canada. En 1964, les revenus de la Compagnie en provenance de ces contrats se sont élevés à \$838,000.

En résumé, la Compagnie a déclaré qu'elle avait la conviction "qu'il n'existe rien qui puisse remplacer la faculté de pouvoir consulter sans restriction les administrateurs les plus expérimentés du plus vaste réseau de communications au monde" et que sa "valeur réelle ne saurait s'exprimer en dollars et en cents".

Durant le contre-interrogatoire de la Compagnie pendant lequel des témoins avaient apporté des témoignages relativement au contrat de service, le procureur des municipalités s'est reporté à la décision n° 67369, en date du 11 juin 1964 prise par la Public Utilities Commission de l'État de la Californie (Cause n° 7409, relativement à The Pacific Telephone and Telegraph Company), par laquelle la commission avait fait certains rejets en ce qui concerne le contrat de service entre le Pacific Telephone et l'A.T. & T., et a demandé si les allocations de coûts et de dépenses de l'A.T. & T., à la commission de la Californie, étaient faites sur la même base que les allocations versées à la Compagnie Bell telles qu'indiquées dans le document n° B-9. Le témoin de la Compagnie Bell, M. Dobbie, a affirmé que tel était le cas et a fait remarquer que la Californie était la seule autorité qui avait fait des rejets de frais durant les dernières années en ce qui concerne les allocations de coût au sujet des contrats de service. Il a de plus déclaré que le rejet total fait par la commission de la Californie s'élevait à environ 7 p. 100 des coûts et se rapportait au service des valeurs, aux intérêts des actionnaires de l'A.T. & T., et aux provisions pour fins de pension de l'A.T. & T. Il a indiqué que, dans le cas des allocations de coût à la Compagnie Bell, il n'y avait pas d'allocation accordée à la Compagnie Bell quant au service des valeurs, et il a essayé de montrer, par un exposé, les résultats de l'application des méthodes de la Commission de la Californie aux coûts paraissant au document n° B-9. Cet exposé fut ensuite déposé comme document portant le n° 86 et il a servi à démontrer que le résultat de l'application des méthodes de la Commission de la Californie constituerait une allocation supplémentaire de coûts de \$69,780 pour la Compagnie Bell.

e) Plan de pensions de la Compagnie

Le Plan de pensions de la Compagnie fut établi le 1^{er} juillet 1917 et avant 1952, les clauses furent essentiellement les mêmes, sauf que le montant de pension minimum fut augmenté de \$20 à \$30 par mois en 1921, et de \$30 à \$40 par mois en 1946. Des changements successifs durant la période de 1952 à 1963 ont modifié le fonds afin qu'il soit au pas avec ceux d'autres grandes entreprises.

Le plan de pensions actuel accorde une pension de service, à la demande de l'employé ou par décision de la compagnie, à l'âge de 60 ans pour les hommes et à l'âge de 55 ans pour les femmes, qui comptent au moins 20 ans de service, ou à l'âge de 65 ans pour les deux groupes pour ceux qui ont au moins 15 ans de service. Ces pensions font partie des pensions de la classe "A", mais une clause a été prévue en vue d'accorder des pensions avant ces âges dans certains cas. La mise à la retraite d'office est fixée à 70 ans.

Le montant de la pension est de 1.1 p. 100 des premiers \$10,000 de salaire moyen annuel durant les cinq années consécutives pendant lesquelles le salaire a été le plus élevé, multiplié par le nombre d'années de service. Par ailleurs, un taux de 1%, multiplié par le nombre d'années de service, s'applique à l'excédent de salaire moyen annuel au-dessus de \$10,000 au cours de ces années consécutives. La pension minimum est de \$70 par mois avant l'âge d'admissibilité aux paiements de sécurité de la vieillesse et de \$55 par mois par la suite.

Le plan de pensions de la Compagnie est financé par la Compagnie sans contribution de la part des employés et se base sur trois principes fondamentaux:

- a) assurer la mise à la retraite méthodique des employés qui ne répondent plus aux exigences de l'entreprise, les frais pertinents de pension étant considérés comme une dépense raisonnable et appropriée destinée à éviter des frais cachés de feuille de paye et la baisse générale de rendement qui en découleraient autrement;
- b) assurer une base de pension à laquelle l'employé pourrait ajouter son propre régime en vue d'un revenu de retraite appréciable au moyen de plans d'épargne par retenues sur le salaire; et
- c) veiller à maintenir une relation raisonnable entre le plan de pensions de la Compagnie et ceux des autres grandes entreprises.

Des études ont été entreprises par la Compagnie durant la période de 1949 à 1964 afin de déterminer dans quelle mesure son plan de pensions était en relation raisonnable avec ceux des autres grandes entreprises. Les résultats de ces études ont indiqué la stabilité du rang du plan de pensions de la Compagnie par rapport aux autres entreprises depuis 1949.

Un témoignage quant à la méthode suivie par la Compagnie pour subvenir aux coûts de pension pour longs services a été apporté par un actuaire-conseil qui a indiqué que la législation de l'Ontario exige l'emploi de la méthode des provisions. La caisse de la Compagnie est l'objet d'une révision actuarielle périodique et de telles révisions ont été rendues obligatoires par la loi depuis la fin de la Seconde guerre mondiale. Le taux de provision moyen annuel pondéré actuel est de 4.65 p. 100. Ce taux a d'abord été fixé en juillet 1950 et a été confirmé selon les évaluations subséquentes de 1955, 1959 et de 1964. Lors de la dernière évaluation, le témoin actuaire de la Compagnie a affirmé qu'il

avait constaté que la partie non couverte de la réserve nécessaire s'établissait à environ \$37,000,000, à la fin de 1963.

Cette partie non couverte de la réserve nécessaire provient surtout des augmentations générales de gages et salaires qui ont eu lieu entre les évaluations. Afin de liquider cette partie non couverte de la réserve nécessaire d'ici 1980, le témoin a recommandé à la compagnie d'effectuer des versements annuels d'environ \$3,100,000 à la caisse du plan de pensions à partir de 1964. Il a de plus déclaré que le conseil d'administration de la compagnie avait endossé ces recommandations. Au cours du plaidoyer, le procureur des municipalités a fortement conseillé à la commission d'entreprendre un étude afin de déterminer si un régime de pension sans cotisations constitue un plus lourd fardeau pour les abonnés par rapport à un fonds de pensions à participation. Il a aussi affirmé qu'il considérait que le plan de pensions de la Compagnie Bell devrait être plus progressif et que la libéralisation du fonds de pension ne devrait pas être faite sans l'approbation de la commission.

f) Amortissement et évolution des provisions pour amortissement

La Compagnie a cité la définition de l'amortissement telle qu'établie par la Commission fédérale des communications des États-Unis, définition qui fait partie du Système de comptabilité de la Compagnie Bell. La définition était rédigée comme suit:

“L'amortissement, dans le cas de l'outillage téléphonique amortissable, correspond à la perte de valeur de service non restituée par l'entretien courant et encourue en rapport avec la destruction ou le retrait éventuel de l'outillage téléphonique dans le cours du service, par suite de causes qu'on sait rattachées à l'exploitation courante, contre lesquelles aucune assurance ne protège la compagnie et dont on peut prévoir les effets avec une précision raisonnable. Parmi les causes à prendre en considération se trouvent les suivantes: usure, décomposition, action des éléments, insuffisance, vieillissement ou désuétude, changements techniques, modifications de la demande et exigences des autorités publiques.”

On a déclaré que les principales causes de retrait des installations peuvent être de deux sortes: physique ou fonctionnelle. Les causes physiques comprennent l'usure, l'action des éléments, et les accidents. Les causes fonctionnelles comprennent le rendement insuffisant, le vieillissement, les changements dans la demande, et les exigences des autorités publiques. “Le rendement insuffisant” et “les changements dans la demande” résultent principalement de l'accroissement du nombre des abonnés, des services fournis, et des installations qui rendent, par la suite, les installations et les bâtiments impropres à répondre aux demandes de service d'une manière économique, ce qui nécessite la substitution des installations par d'autres ayant une capacité accrue. “Les

exigences des autorités publiques" se rapportent aux conditions qui proviennent des programmes d'élargissement des rues et d'amélioration des routes. "Le vieillissement" résulte principalement de procédés améliorés adoptés dans les installations téléphoniques qui rendent désuets les anciens procédés.

La Compagnie maintient un vaste système de registres des installations et chaque année des études techniques de grande envergure sont entreprises afin de déterminer les taux d'amortissement qui s'appliquent aux différentes catégories de matériel téléphonique. La méthode que l'on utilise est celle dite en ligne droite, qui consiste à imputer sur les dépenses le coût initial des biens, moins leur valeur nette de récupération lors du retrait, par portions annuelles égales pendant la durée en service. Afin d'établir le taux d'amortissement de chaque catégorie d'installations, la durée moyenne en service est déterminée d'après le "taux de mortalité" des installations qui fut établi pour la première fois par la Compagnie à la fin des années 1920 et qui fut maintenu depuis. La valeur nette moyenne de récupération prévue est la différence entre la valeur brute de récupération prévue et les coûts d'enlèvement prévus, y compris les frais de retrait des installations sans valeur de récupération.

Au cours de la période de 1959 à 1964, les provisions pour amortissement ont augmenté de \$42,100,000, dont 85 p. 100 découlent de l'augmentation des immobilisations en installations en service. Le solde, environ \$6,400,000 résulte de l'accroissement des provisions pour amortissement, surtout pour les appareillages de postes, les raccordements de postes et les fils aériens de centraux. L'accroissement du taux des appareillages de postes est dû en grande partie à la mobilité plus grande de la population, ce qui a abrégé la durée en service sur les lieux de l'équipement. L'expression "raccordements de postes" comprend tout le matériel et la main-d'œuvre nécessaires à l'installation et au raccordement des appareillages de postes au réseau extérieur et le taux d'amortissement est déterminé par le déplacement des téléphones, mouvement qui est déterminé par l'abandon du service ou le changement de domicile ou de place d'affaires de la part de l'abonné. Le changement de taux des fils aériens de centraux a été causé par les effets combinés de la diminution de durée et de l'insuffisance croissante des lignes à fil nu au profit des fils couverts (ou multiples). Le taux composé d'amortissement pour tous les biens sujets à l'amortissement a été de 5 p. 100 pour l'année 1964, et les taux pour les différentes catégories d'installations se sont échelonnés de 1.7 p. 100 pour la canalisation souterraine à 13.6 p. 100 pour les fils aériens de centraux.

g) Revue et prévisions économiques générales.

M. Clarence Barber de l'Université du Manitoba a présenté, au nom de la Compagnie, une revue économique générale de la croissance d'après-guerre au Canada. Il a aussi décrit les projections de la production et de l'emploi au

Canada, telles qu'établies par la Commission royale d'enquête sur les services de santé (la commission Hall) et par le Conseil économique du Canada.

Selon le rapport de la commission Hall, le Canada comptera une population d'un peu plus de 25 millions de personnes en 1976, et une main-d'œuvre active d'environ 9 millions, et un produit national brut d'environ \$70,000,000,000 par rapport aux prix de 1957, c'est-à-dire presque 80 p. 100 de plus que la production de 1963. Si on tient compte des prix plus élevés qui devraient prévaloir en 1976, on prévoit un produit national brut de \$100,000,000,000, c'est-à-dire environ 2.3 fois le niveau atteint en 1963. Une projection faite par le Conseil économique du Canada pour la période de 1963 à 1970, indique que le produit national brut par rapport aux prix de 1963 devrait atteindre un niveau de \$62,500,000,000 en 1970, c'est-à-dire une augmentation d'environ 45 p. 100 du niveau de 1963. Pour atteindre ce but, le produit national brut devrait s'accroître à un taux moyen annuel de 5.5 p. 100, bien au-dessus du taux d'accroissement atteint à la fin des années 1950.

M. Barber a indiqué que l'accroissement qui a été réalisé dans la production et dans l'emploi au cours des 14 dernières années, était principalement dû au niveau élevé d'immobilisations de la part des entreprises et du gouvernement. Bien que le taux d'immobilisations ait diminué depuis qu'il avait atteint un sommet en 1957, les niveaux de dépenses courantes sont encore grandes. En tant que pourcentage du produit national brut, ils surpassent par une marge considérable les niveaux d'immobilisations qui prédominent aux États-Unis. Afin d'atteindre les niveaux de production projetés par la commission Hall et le Conseil économique, un niveau élevé et permanent de dépenses en immobilisations sera requis dans les années à venir. Il fut dès lors évident qu'une très forte concurrence sur le marché des capitaux se produirait et qu'une part importante des capitaux nécessaires proviendrait de l'extérieur. C'est ainsi qu'on a indiqué qu'il était probable que les taux d'intérêt élevés qui avaient prévalu au cours des dernières années se maintiendraient et qu'ils s'élèveraient même.

Durant les dernières années, les immobilisations de la Compagnie Bell se sont élevées en moyenne à près de 4 p. 100 de l'ensemble des immobilisations en nouvelles installations et nouvel équipement au Canada. Le financement des immobilisations de la Compagnie Bell a nécessité une large part de nouveaux fonds d'immobilisation. Au cours de la période de 1946 à 1963, les obligations de la Compagnie Bell ont représenté 6 p. 100 de toutes les émissions d'obligations de compagnies offertes au Canada. Le financement de la compagnie au moyen de nouvelles émissions d'actions ordinaires pendant la même période s'est élevé à 17 p. 100 de toutes les nouvelles émissions d'actions ordinaires au Canada. De telles immobilisations n'ont pas seulement amélioré la productivité des opérations de la Compagnie mais ont aussi collaboré de façon essentielle à une efficacité accrue de l'économie canadienne. Entre 1946 et 1964,

le nombre d'employés par 1,000 téléphones en service a diminué de 18.5 à 8.3. Au même moment, l'investissement en installations et en équipement par employé a augmenté de \$12,800 à \$65,000.

M. Barber a conclu en indiquant que la direction de la Compagnie doit concilier les intérêts de trois groupes différents: les abonnés, les employés et les actionnaires. Quoique les intérêts à court terme des trois groupes semblent entrer en conflit, ils ont tous trois un intérêt à long terme qui consiste en ce que la Compagnie connaisse le succès au point de vue de l'expansion et de l'efficacité. D'après M. Barber ceci requerrait un niveau de bénéfices qui permettrait à la Compagnie d'attirer le capital nécessaire pour maintenir les fortes immobilisations essentielles à son efficacité et à son expansion; qui attirerait et retiendrait un personnel de direction de fort calibre; et qui permettrait d'effectuer des dépenses en vue de la recherche et de la mise au point. Il a considéré que le procédé de réglementation devrait s'assurer de l'existence de stimulants véritables en vue d'une gestion efficace, de l'innovation, de la prévision réussie des besoins des abonnés, car une société réglementée doit concurrencer les sociétés non réglementées quant à la direction et au personnel. Les autorités régulatrices devraient entreprendre une évaluation en fonction de l'avenir de la situation financière de la Compagnie, car ce n'était pas seulement les profits d'une seule entreprise qui étaient en cause, — un élément important de l'économie canadienne dans son ensemble qui était en jeu.

Lors du contre-interrogatoire, M. Barber a expliqué que ce qu'il entendait par "évaluation en fonction de l'avenir", qui tiendrait compte de l'accroissement rapide du contexte économique à l'intérieur duquel la Compagnie devra fonctionner, et à l'intérieur duquel elle devra obtenir de nouveaux capitaux. Il a de plus déclaré qu'en économie canadienne, on prenait beaucoup trop de décisions en ne tenant compte que des conditions actuelles sans se préoccuper de l'accroissement économique d'année en année, et de celui qui se produira d'ici 1970.

h) Relations entre la Compagnie Bell et la Northern Electric Company Limited.

Quatre témoins de la Compagnie ont rendu témoignage quant aux dépenses de la Compagnie en biens et services; au Contrat d'approvisionnement entre la Compagnie Bell et la Compagnie *Northern*; aux prix exigés par cette dernière à la Compagnie Bell et aux autres compagnies; aux raisons pour lesquelles la Compagnie Bell possède la Compagnie *Northern* et les avantages qu'elle en retire; aux ententes financières entre les Compagnies Bell et *Northern*.

Au cours de l'année 1964, les dépenses de la Compagnie Bell en biens et services, aussi bien en "capital" qu'en "dépenses" s'élevèrent à quelque \$281,000,000 et 63 p. 100 de ce montant sont des dépenses impliquant la Com-

pagnie *Northern* et 37 p. 100 des montants payés aux autres compagnies. La répartition de la facturation de la Compagnie *Northern* montre que 81 p. 100 de la somme furent consacrés au matériel accessoire fabriqué par la Compagnie *Northern*, y compris l'installation s'il y a lieu. Les achats de fournitures d'autres sources que la Compagnie *Northern*, représentèrent 13 p. 100 du total; les réparations, 3.3 p. 100; les autres services, 0.5 p. 100 et les taxes de vente 2.2 p. 100.

En 1964, la Compagnie *Northern Electric* paya à la Compagnie Bell, aux taux réguliers, \$1,500,000 pour les services téléphoniques, et \$843,000 pour la location d'espace dans des immeubles. De son côté, la Compagnie Bell paya à la Compagnie *Northern* la somme de \$196,000 pour les bureaux qu'elle lui avait loués.

Le Service de comptabilité de la Compagnie Bell confirme les reçus de marchandises venant de la Compagnie *Northern* et les montants payés à cette dernière.

La Compagnie Bell considère depuis longtemps qu'un Contrat d'approvisionnement officiel entre les deux compagnies est nécessaire pour un meilleur fonctionnement, pour définir et protéger ses droits sur les services de la Compagnie *Northern*. Un tel contrat était en vigueur depuis 1912 avec un prédécesseur de la Compagnie *Northern* et il fut continué avec cette dernière en 1914 puis révisé en 1924, 1931 et 1939. Le Contrat d'approvisionnement, tel qu'il se présente aujourd'hui est fait en fonction des révisions de 1939, et des autres révisions moins importantes de 1946, 1949 et 1950. Le Contrat, déposé à titre de pièce justificative B-50, est le même que celui présenté à la Commission au cours de l'audience relative aux taux en 1957, à l'exception de l'Appendice "A" du Contrat, révisé annuellement, et qui comprend les taux de rendement pour les services rendus par la Compagnie *Northern*, pour ce qui est des achats, de l'emmagasinage et de l'inspection.

Voici les trois principaux articles du Contrat d'Approvisionnement:

- a) la Compagnie *Northern* doit stocker et distribuer les fournitures à la Compagnie Bell;
- b) Les prix que la Compagnie Bell paye pour les fournitures fabriquées par *Northern*, pour l'installation et autres services, seront ceux dont jouissent les clients les plus favorisés, si ces fournitures et services sont du même ordre;
- c) Les responsabilités et devoirs des deux compagnies sont définis.

D'après ce contrat, le coût des installations de la Compagnie Bell et de ses achats à la Compagnie *Northern* en 1964 est de \$144,000,000. Le montant des fournitures que la Compagnie Bell acheta aux industries autres que la *Northern* est de \$23,000,000. Les frais de réparations et autres services que la

Compagnie Bell versa à la Compagnie *Northern* s'élevèrent à \$5,780,000 et \$974,000 respectivement. La Compagnie *Northern* entrepone à Montréal et à Toronto des fournitures qu'elle met à la disposition de la Compagnie Bell. Ces entrepôts servent également à la manutention, à l'emmagasiner et à la réparation des fournitures retournées.

Le Contrat d'approvisionnement prévoit deux méthodes de paiement pour les réparations faites par la Compagnie Bell:

- a) aux prix établis;
- b) au prix effectif de la main-d'œuvre, aux prix fixés pour les fournitures et les réserves pour frais généraux.

La Compagnie *Northern* veille à l'inspection technique et mécanique des fournitures achetées pour la Compagnie Bell à d'autres entreprises. D'après le Contrat, la Compagnie *Northern* peut également rendre à la Compagnie Bell d'autres services, moyennant des tarifs particuliers.

La Compagnie Bell, en pesant le pour et le contre des prix de la Compagnie *Northern*, fixe une échelle de prix raisonnables et discute avec la Compagnie *Northern* de la possibilité de se conformer à une telle échelle. La Compagnie Bell acceptera les prix que lui offre la Compagnie *Northern* pour un nouvel article, seulement après en avoir considéré la modération, en proportion dudit service.

La Compagnie déclare que les facteurs jouant dans la décision sont: la connaissance que ses ingénieurs ont de ce qui est disponible sur le marché libre; les prix que peuvent confirmer des études économiques et des études sur les taux et le marketing; les quantités impliquées; les années d'usage possible; et si l'on peut s'attendre à une réduction des prix avec une augmentation du volume. Des études de technogénie, simples ou détaillées, précèdent souvent l'uniformisation d'un produit manufacturé par la Compagnie *Northern*. Elles tiennent compte de l'augmentation possible du rendement des employés, de la diminution des frais d'entretien, de la continuité de modèle de l'effet sur les installations actuelles et de la fourniture d'autres services. Ces considérations demandent une sérieuse réflexion de la part des ingénieurs et la coopération de tous les services de la Compagnie Bell.

La Compagnie Bell considère que les prix qu'elle paie à la Compagnie *Northern* pour les appareils de téléphone et autres fournitures sont raisonnables, parce que cette dernière a mis en vente sur le marché une importante quantité d'appareils de communication; la clause du Contrat entre les Compagnies Bell et *Northern*, concernant les clients les plus favorisés, stipule que les prix demandés à la Compagnie Bell seront ceux dont jouissent les clients les plus favorisés de la Compagnie *Northern*, pour des fournitures et services comparables. On fait la comparaison des prix entre les principaux genres de produits,

d'après des échantillons, s'assurant ainsi que la clause du contrat est observée. On fait de même pour les constructions mécaniques et les services d'installation.

Les vérificateurs de la Compagnie Bell, Touche, Ross, Bailey et Smart, font chaque année des études en se servant de dossiers de la Compagnie *Northern*. Un exemplaire de leur dernier rapport porte le numéro de pièce justificative B-52. On fit cette dernière vérification sur un échantillon de 8 p. 100 des contrats de vente de la Compagnie *Northern* (et qui représentent 5 p. 100 des contrats établis pendant l'année), et sur les ventes d'un jour par mois, mais qui ne sont pas des contrats de vente (et qui représentent environ 5 p. 100 de ces ventes). L'étude des prix, mise au point par le vérificateur, montre que les prix demandés à la Compagnie Bell sont inférieurs aux prix demandés aux autres compagnies.

On contrôla ensuite la modération des prix proposés, par *Northern* à la Compagnie Bell en les comparant avec ceux de cinq grands fournisseurs d'appareils téléphoniques aux États-Unis. Malgré des petites variations d'une année à l'autre, on s'aperçut que les prix que la Compagnie *Northern* demandait à la Compagnie Bell étaient généralement inférieurs à ceux exigés par les quatre fournisseurs américains, dont le volume des ventes se compare. Ils semblent aussi se rapprocher des prix que la Compagnie *Western Electric* demande aux compagnies du Bell System en prenant en considération la différence du volume de production entre la *Western Electric* et la *Northern*.

Les efforts conjugués des compagnies Bell et *Northern* ont entraîné des réductions générales de prix, la plus récente étant celle de 1964 qui doit épargner à la Compagnie Bell une somme de \$3,400,000 pour l'année 1965.

La Compagnie déclara que la fabrication de téléphones et d'équipement connexe par la Compagnie *Northern* et les compagnies antérieures est restée en rapport étroit, dès le début, avec la fourniture du service téléphonique par les soins de la Compagnie Bell. En 1881, la Compagnie se vit dans l'obligation de se livrer à la fabrication des appareils téléphoniques, étant donné le décès de son fournisseur précédent et le fait qu'on ne trouvait pas au Canada, de fabricants de tels appareils. L'importation, à cette époque, risquait d'invalider les brevets canadiens. Toute fluctuation de la quantité de travail à accomplir amenait souvent une fluctuation égale de la main-d'œuvre manufacturière. Ainsi on décida, en 1895, de fonder une filiale manufacturière distincte, la *Northern Electric and Manufacturing Company*, qui pouvait gagner l'accès d'un marché plus stable et plus grand, et assurer ainsi un rendement maximum et un équipement téléphonique à meilleur compte. En 1899, on constitua en compagnie une fabrique de fils et de câbles, qui fusionna par la suite avec la branche manufacturière pour devenir, en 1914, la Compagnie *Northern Electric, Limitée*.

Au début, la Compagnie Bell absorba toute la production de ses filiales manufacturières, mais à partir du moment où le chiffre d'affaires de ces compagnies augmenta, la proportion de leur production destinée à la Compagnie Bell

diminua, et en 1912, seulement 30 p. 100 de la production lui revint. Pendant la première Guerre Mondiale, la part de la Compagnie Bell tomba à 20 p. 100 puis remonta à 58 p. 100 au début des années 1920. De 1940 à 1945, la Compagnie Bell ne prit que 15 p. 100 de la production, mais dans les années qui suivirent la guerre, le pourcentage augmenta et aujourd'hui 53 p. 100 du total des ventes de la Compagnie *Northern* va à la Compagnie Bell. La Compagnie déclara que si elle avait pu facilement prévoir un progrès et une meilleure qualité de ses services de communication, c'était surtout grâce à l'intégration étroite de ses recherches, de son développement, de sa fabrication et de son exploitation. Elle estime que rien ne saurait remplacer aussi bien de tels arrangements, étant donné la bonne qualité et les prix abordables des moyens de communication qu'elle met à la disposition de la Compagnie Bell.

On fit des comparaisons entre les conditions établies par la présente association des compagnies Bell et *Northern* et les conditions qui pourraient prévaloir avec deux autres ententes: a) les soumissions concurrentielles et b) un ou plusieurs contrats à long terme avec un ou plusieurs fournisseurs. Il ne faut pas cependant oublier qu'il est question d'un réseau complet de communications, au sein duquel tous les organes doivent s'agencer les uns les autres. La Compagnie *Northern* a acquis la connaissance des conditions d'un tel réseau au cours de son étroite collaboration avec la Compagnie Bell. Le système concurrentiel de soumissions obligerait la Compagnie Bell à publier les détails de chaque soumission, ce qui demanderait un déploiement mécanique et des frais plus importants. Le choix d'équipement compatible serait aussi plus difficile. Un système de contrat à long-terme supposerait que les intérêts des manufacturiers différeraient de ceux de la Compagnie Bell, parce que leurs marchandises devraient rapporter un profit maximum; cette situation diminuerait l'importance de la compatibilité ou de la capacité d'acheminement du trafic. De plus, ces manufacturiers n'auraient peut-être pas les mêmes possibilités de faire leurs essais sur place.

Un système de soumissions concurrentielles obligerait la compagnie de téléphone à attendre les développements technologiques qui répondraient aux besoins qu'elle peut présentement prévoir. Ce système rendrait presque impossible de s'assurer un approvisionnement de pièces de rechange pour les appareils plus vieux; le service téléphonique deviendrait, par le fait même, beaucoup plus coûteux, en raison du rythme accéléré de remplacement. Les mêmes problèmes se poseraient aussi en adoptant la solution de contrats à long terme avec un manufacturier indépendant, car celui-ci, à cause de son régime économique, ne pourrait plus fournir les pièces de rechange. La mise sur pied d'un réseau téléphonique, équipé par plusieurs manufacturiers, causerait également d'énormes difficultés, nuirait au service et augmenterait les frais d'entretien et de technogénie.

L'association actuelle avantage les deux compagnies, la Compagnie Northern prévoyant sa production selon les exigences du contrat à long terme de la Compagnie Bell. Un système concurrentiel de soumissions ne permettrait en aucune façon ce genre d'organisation. La Compagnie Bell soutient que, au point de vue des prix, un seul fournisseur profite des avantages économiques, venant du volume de la production, beaucoup plus que plusieurs fournisseurs répondant aux mêmes exigences générales. D'autre part, plus la production est élevée, plus la mécanisation des processus de production peut s'effectuer tôt, ce qui entraîne des profits cumulatifs dans la réduction du coût unitaire. La Compagnie Bell affirme que tous les avantages qui découlent des économies de grande échelle de production de la Northern lui reviennent en entier sous forme de prix moins élevés et de dividendes.

Tenant compte de la qualité de sa production, la Compagnie Bell pense que les soumissions concurrentielles ne mèneraient qu'à un réseau dispendieux et de moins bonne qualité, à de plus grandes difficultés dans la mise en vigueur de services et d'équipements dont le public a besoin. La compagnie affirme aussi qu'un manufacturier indépendant lié par un contrat à long terme doit acquitter ses frais généraux chaque année et verser des dividendes raisonnables à ses bailleurs de fonds. Dans ce cas, il ne sera guère favorable aux contrats à long-terme d'une agence indépendante.

Lors de la constitution de la Compagnie Northern Electric en 1914, la Compagnie Bell possédait 50 p. 100 des actions en circulation, sans compter les 6.4 p. 100 appartenant aux nominataires de la compagnie. Le solde des actions appartenait à la Compagnie Western Electric, aux États-Unis. Cette participation de la Compagnie Bell augmenta graduellement et équivaut aujourd'hui, grâce à deux acquisitions en 1957 et en 1962, à 100 p. 100. Par l'achat d'actions en 1957, les investissements de la Compagnie Bell passèrent de \$6,600,000 à \$26,300,000; en 1962, le chiffre avait atteint le total actuel de \$34,400,000.

Bien que la Compagnie Northern soit indépendante et cherche avant tout à satisfaire les exigences de la Compagnie Bell, sa structure financière, ses bénéfices et le grand nombre de ses ventes lui ont cependant assuré de bonnes relations avec d'autres entreprises manufacturières comparables.

La structure du capital de la Compagnie Northern et de 65 valeurs industrielles de la Bourse de Montréal donnent, pour la période allant de 1949 à 1963, la moyenne générale suivante:

	Prorata de la dette %	Prorata d'actions privilégiées %	Prorata d'actions ordinaires %
Compagnie Northern Electric	20.92	—	79.08
Moyenne de 65 valeurs industrielles	22.80	4.52	72.68

Les taux moyens de rendement du capital total et du capital d'équité réalisés par la Compagnie Northern et les autres valeurs industrielles, pour la même période, sont les suivants:

	Taux moyen de rendement	
	du capital	du capital
	total	d'équité
	%	%
Compagnie Northern Electric	10.26	11.95
Moyenne de 65 valeurs industrielles	10.54	12.65

Les dividendes que la Compagnie Northern paya à la Compagnie Bell augmentèrent de \$3,600,000 en 1959 à \$5,700,000 en 1964. Pendant ces années-là, la proportion des bénéfices payés en dividendes par la Compagnie Northern fut d'environ 44 à 74 p. 100, tandis que celle des 65 valeurs industrielles fut de 54 à 58 p. 100. En juillet 1964, la Compagnie Northern déclara un dividende particulier d'une action pour quatre actions détenues antérieurement, de sorte que le nombre d'actions appartenant à la Compagnie Bell passa de 810,000 à 1,012,500.

La Compagnie Bell affirma que ses aptitudes à contrôler les effets de l'obsolescence constituait l'un des principaux avantages résultant du contrôle de sa branche manufacturière. Depuis les débuts du service téléphonique, les progrès technologiques engendrèrent imperfection et obsolescence des installations; tout comme aujourd'hui encore, mais cet état d'obsolescence a rarement requis un renouvellement complet des installations de communication. Les progrès techniques furent d'abord appliqués aux services nouveaux ou supplémentaires; et l'équipement démodé fut remplacé seulement lorsque les préférences des abonnés et les coûts de fabrication, d'entretien et de réparation eurent indiqué que le remplacement devrait être fait. D'autre part, il ne fut pas nécessaire de remplacer tous les dispositifs et matériaux anciens par des plus récents, car la rapidité du progrès technique a entraîné l'utilisation des deux. Le droit de propriété sur une entreprise manufacturière garantit la maîtrise d'un tel état de chose, permet d'établir le genre, la qualité et les possibilités des fournitures qui seront fabriquées et aussi d'assurer une production continue de pièces de rechange.

Les autres avantages qui découlent du recours à un unique et principal fournisseur sont l'entreposage, la réparation et l'expédition du matériel téléphonique; l'achat et l'inspection d'une grande variété de fournitures, d'outils et de véhicules; la disponibilité du matériel à l'endroit et au moment où l'abonné le réclame; et la capacité de rétablir le service à la suite de dommages causés par des tempêtes, du verglas ou des incendies.

Lors d'un contre-interrogatoire, un témoin de la Compagnie présenta l'analyse suivante des ventes de la Compagnie Northern Electric pour l'année 1964:

Ventes faites à la Compagnie Bell..... 53 p. 100

Ventes faites aux autres compagnies de télécommunication..... 18 p. 100

Ventes faites aux compagnies autres que de télécommunication..... 24.8 p. 100

Ventes à l'étranger..... 4.2 p. 100

Le même témoin affirma, qu'à sa connaissance, le calcul des taux de rendement des ventes faites à la Compagnie Bell par la Compagnie Northern n'était pas présenté comme le demandait le Procureur des Municipalités; mais il croit cependant que la Compagnie Northern a très probablement fait des approximations sur de tels taux de rendement. Il soutient que la Compagnie Bell n'est pas au courant des prix de la Compagnie Northern, puisque cela serait une tendance à s'approprier les fonctions de direction de la Compagnie Northern. Selon lui, la Compagnie Northern a répondu aux besoins de la Compagnie Bell en lui offrant les plus bas prix possibles, et tout en respectant la qualité, l'entretien et les exigences de cette dernière.

i) Rémunération équitable du capital global de la Compagnie

M. W.A. Morton, professeur d'Économie à l'Université de Wisconsin, se prononça au sujet du taux raisonnable de rendement sur le capital total de la Compagnie Bell en vue d'assurer le service au public; ce n'est d'ailleurs pas la première fois que M. Morton témoigne, devant diverses agences américaines de réglementation au sujet du taux raisonnable de rendement des services publics.

Selon lui, un taux raisonnable de bénéfices, pour la Compagnie Bell, serait un pourcentage de rendement sur le capital total; de plus, ce procédé serait de plus raisonnablement conforme à la pratique des juridictions américaines. Le rendement tout en étant juste doit être concurrentiel et serait normalement inférieur à celui que le service public pourrait obtenir sans réglementation. M. Morton entend par "rendement concurrentiel", "une capacité de gain du capital" ou encore ce que le capital rapporte dans des entreprises concurrentes où les risques sont analogues. Cette idée se rattache intimement avec un essai de bénéfices comparatifs, essai qui peut aussi s'appliquer pendant une période de progrès économiques. Selon un tel essai, un rendement raisonnable en serait un capable d'attirer suffisamment de capitaux pour financer l'entreprise; cependant, ni la concurrence ni la réglementation n'assureraient que le capital investi dans une entreprise quelconque rapporterait des bénéfices. Une réglementation ne ferait que favoriser l'obtention d'un rendement raisonnable, mais ne le garantirait pas.

Bien que le but d'une réglementation soit de prévenir des profits de monopole elle devrait aussi inciter l'entreprise de service public à rechercher ce que M. Morton appelle "des bénéfices d'efficacité". Ceci serait possible en appliquant le taux raisonnable des bénéfices sur les actions ordinaires, tout en faisant preuve de modération, de sorte que, grâce aux réductions de coût, un goût pour le progrès demeurerait, et que les bénéfices résultants seraient divisés entre abonnés et actionnaires. Le progrès fut garanti, non pas en réduisant le rendement sur le capital, mais en réduisant les coûts de production. Mais si chaque amélioration, soit sous forme de coûts moins élevés ou de bénéfices accrus, devait être contre-balancée par une mesure régulatrice, le goût de progresser serait alors affaibli et l'entreprise de service public en viendrait à adopter la routine du "prix de revient plus les frais", c'est à dire des taux

couvrant les frais plus un taux raisonnable de rendement. Cette attitude serait ruineuse, inefficace et nuisible aussi bien au service public qu'aux clients.

M. Morton considère qu'une limitation des bénéfices, sous forme d'un nombre déterminé de dollars par action, détruirait le goût d'utiliser au mieux les nouveaux investissements. Il était inexact en principe de ne pas tenir compte de l'amélioration du rendement et du rôle des actionnaires dans l'augmentation de l'avoir propre comptable par action. Les bénéfices par action ne devraient donc pas être séparés de l'avoir propre de base par action.

Selon M. Morton, les bénéfices sur l'avoir des actionnaires et les dividendes mesurent le rendement de l'avoir des actionnaires. De plus, le chiffre des bénéfices moyens indique la possibilité de bénéfices. Ces idées servent de base aux comparaisons de la pièce justificative B-45, faites pour la période allant de 1947 à 1963, entre le rendement financier des actions ordinaires de la Compagnie Bell, de compagnies industrielles canadiennes, de compagnies industrielles américaines et de services publics américains. Ce document, au dire de M. Morton, montre que les actions ordinaires de la Compagnie Bell n'ont pas été tellement profitables en tant que placements, comparativement aux actions des services publics et des valeurs industrielles concurrentielles. Le rendement sur l'avoir des actionnaires de la Compagnie Bell et l'augmentation du prix courant par action ont été inférieurs à ceux des compagnies qu'on peut comparer avec la Compagnie Bell. Un actionnaire aurait profité davantage de fonds répartis dans les compagnies mentionnées dans le document à l'appui, que d'actions achetées à la Compagnie Bell. Et cependant, si l'avoir des actionnaires de la Compagnie Bell n'a pas augmenté, ce n'est pas à cause d'une faible allure de l'expansion; car le capital global de la Compagnie Bell s'est accru beaucoup plus rapidement que celui du Bell System aux États-Unis, des réseaux de distribution d'électricité américains de l'industrie américaine en général. Devant une telle situation, M. Morton conclut que tout espoir de plus-value de de la valeur au marché des actions de la compagnie Bell doit reposer sur la conviction des investisseurs que la Compagnie Bell se verra permettre d'atteindre un niveau de bénéfices plus élevé que dans le passé.

M. Morton suggère de suivre l'exemple des autres compagnies du même genre, pour rejoindre un niveau raisonnable de bénéfices. Les bénéfices concurrentiels, qui sont un taux raisonnable de rendement, doivent être semblables à ceux des autres entreprises, en dépit des risques, parce que l'actionnaire a payé un prix qu'il espère être proportionnel à ses chances de faire des bénéfices, sous forme de dividendes, actif immobilisé et plus-value. Les bénéfices concurrentiels doivent aussi attirer les capitaux et maintenir l'intégrité des placements. Le taux raisonnable de rendement était un but; ce n'était pas une marque précise, mais une échelle considérée raisonnable. Un point de départ qui est raisonnable au moment où les taux sont établis, n'est pas obligatoirement

le niveau exact où doivent se maintenir les bénéfices. Durant les périodes d'économie stagnante, il n'était pas de mise d'augmenter les taux pour replacer le taux de rendement à un niveau préétabli. Au contraire, une compagnie de téléphone peut améliorer ses bénéfices pendant des périodes d'économie prospère. Un niveau de bénéfices qu'on peut considérer raisonnable parce qu'il a été atteint pendant une période d'économie prospère, n'est pas toujours indiqué comme norme pour des taux élevés dans l'avenir.

Les services publics, comme la Compagnie Bell, détiennent le monopole d'un grand nombre de services dans une région desservie, et n'affrontent pas les mêmes risques que les services privés: concurrence directe, surproduction due aux investissements concurrentiels, perte de marchés au profit des concurrents. Du fait qu'ils ont moins de risques que les compagnies industrielles, règle générale, les services publics ont un prorata de dettes plus élevé, mais leurs bénéfices sur l'avoir des actionnaires peuvent être comparables à cause de l'influence d'un plus grand capital-obligations sur un ensemble de bénéfices inférieurs. Bien que les taux de bénéfices des valeurs industrielles sur le capital global soient plus élevés que ceux des services publics, les taux de bénéfices sur l'avoir des actionnaires sont peu différents.

Le service public qui détient le monopole dans une région desservie évite les dangers de la concurrence directe, mais, à longue échéance, risque davantage de manquer de souplesse que d'autres entreprises. Ses installations sont permanentes et spécialisées afin d'assurer un service particulier et ne sont utiles en autant que ce service particulier rapporte des bénéfices. Ceci n'est pas le cas des manufactures où l'actif immobilisé est plus souple et mieux adapté à la constante demande de nouveaux produits différents par leur emploi. Les installations téléphoniques risquent de tomber brusquement et rapidement en désuétude à cause des changements techniques qui peuvent favoriser de nouveaux procédés de communication.

Pour ces raisons, M. Morton trouva la ligne de conduite de la Compagnie Bell prudente et raisonnable, car elle maintenait une structure de capital de 40 p. 100 de dette obligatoire et de 60 p. 100 de capital-actions. Une dette accrue, cependant, diminuerait la valeur des obligations de la Compagnie et augmenterait le coût de la dette.

M. Morton souligna également que le rendement en dividendes des actions ordinaires de la Compagnie Bell avait récemment été évalué à $3\frac{1}{2}$ p. 100 du cours en bourse, et le rapport cours en bourse-bénéfices à environ $4\frac{1}{2}$ p. 100. Le rendement des obligations de la Compagnie avait été au-dessus de $5\frac{1}{2}$ p. 100. Selon lui, ceci prouve que l'actionnaire n'achète pas les actions ordinaires de la Compagnie Bell pour le dividende courant ou pour le rendement en bénéfices, mais avec l'espoir que dividendes et bénéfices augmenteront. Cependant, il souligna qu'il faut davantage s'attendre à une augmentation probable des

bénéfices sur la valeur aux livres, plutôt qu'à un rendement raisonnable du cours en bourse. Il déclara qu'aux États-Unis, un règlement préférerait utiliser le capital immobilisé d'une compagnie comme base d'un taux raisonnable de rendement, plutôt que le cours en bourse de ses actions et obligations. Les bénéfices réalisés par les services publics sur leur valeur aux livres et leur capital global avaient longtemps été stables, en comparaison avec les cours de leurs valeurs sur le marché.

M. Morton croit qu'il faut s'en rapporter au critère du manque à gagner du capital, mesuré essentiellement par le rendement financier des entreprises avec lesquelles la Compagnie Bell rivalise pour se procurer des capitaux. Les occasions de bénéfices pourraient être considérées comme des occasions de bénéfices sur l'avoir des actionnaires, de dividendes, de sécurité et d'accroissement au moyen de bénéfices réinvestis et de plus-value du capital. Il a soutenu que les concurrents directs des actions ordinaires de la Compagnie Bell sur le marché financier, étaient les actions des autres services publics ou compagnies industrielles, au Canada et aux États-Unis, et que les occasions de bénéfices sur ces actions ordinaires pouvaient indiquer le coût concurrentiel des nouveaux capitaux. Cependant, il ne considère pas que les placements dans des entreprises privées canadiennes de service public soient des alternatives efficaces à des investissements dans la Compagnie Bell, parce qu'elles sont peu nombreuses. Il mentionne également que les bénéfices des services publics n'étaient pas des mesures adéquates pour un taux raisonnable de rendement, et pour cette raison, considérait les profits des valeurs industrielles non réglementées canadiennes et américaines comme preuve de l'efficacité marginale de l'avoir des actionnaires dans les deux pays.

M. Morton souligna que le taux moyen de 6.78 p. 100 des bénéfices sur les actions ordinaires de la Compagnie Bell entre 1947 et 1964, était incontestablement inférieur à celui des valeurs industrielles ou des entreprises de service public américaines; inférieur aussi à celui des compagnies industrielles canadiennes. Selon lui, les rapports de bénéfices versés en dividendes par la Compagnie Bell étaient plus élevés que ceux des autres compagnies, entre lesquelles il établissait une comparaison, et c'était l'une des raisons pour lesquelles les actions de la Compagnie Bell ne semblaient pas être les placements profitables qu'elles auraient dû être. Par exemple, un rendement sur les actions de la Compagnie Bell, équivalent à celui des réseaux de distribution d'électricité aux États-Unis, serait de 8.59 p. 100. Un actionnaire canadien, pour réaliser le même profit sur l'avoir des actionnaires de la Compagnie Bell que sur les actions ordinaires des 125 valeurs industrielles de *Moody*, devrait recevoir un rendement en dividendes d'environ 10.70 p. 100 sur la valeur aux livres. Un calcul semblable indique un rendement de 9.1 p. 100 pour les valeurs industrielles de *Dow-Jones*, et de 10.0 p. 100 pour les valeurs industrielles de *Standard & Poor*. Le rendement en dividendes des 100 valeurs de la *Canadian Business Service* et

des 65 valeurs de la Bourse de Montréal furent respectivement de 6.11 p. 100 et 6.57 p. 100, entre 1949 et 1963, tandis que les rapports de bénéfices versés en dividendes s'établissaient entre 50 et 60 p. 100, comparé à 93.9 p. 100 pour la Compagnie Bell.

M. Morton conclut que le taux juste des bénéfices sur l'équité de la Compagnie Bell se situait quelque part entre le taux de 8.6 p. 100 des équivalences ajustées des bénéfices d'équité des services publics américains et le taux de 10 à 12 p. 100 des bénéfices sur équité des compagnies industrielles. Pour cette raison, il trouve sage d'utiliser 8.6 p. 100 de l'avoir des actionnaires, en plus du coût cumulatif de 4.8 p. 100 de la dette de la Compagnie Bell, pour arriver à un rendement raisonnable de 7 p. 100 du capital total. Ses calculs à cette fin se présentent comme suit:

Coût du capital-actions – 60% à 8.6% = 5.16%

Coût de la dette – 40% à 4.8% = 1.92%

TOTAL 7.08%

RENDEMENT RAISONNABLE DU CAPITAL TOTAL.....7%

j) Appréciation de la Compagnie par les bailleurs de fonds

M. C.E. Atchison, vice-président administratif du groupe Investors, *Investors Syndicate Limited* et vice-président d'autres fonds mutuels, a exprimé la pensée des institutions canadiennes de placement au sujet des actions ordinaires de la Compagnie Bell.

Il décrit le rôle croissant des institutions de placement en tant que débouché pour les actions de compagnies canadiennes. Ces institutions comprennent les fonds de pension non-assurés, les compagnies de placements, les compagnies d'assurance et diverses autres compagnies. Durant la décennie qui prit fin en décembre 1964, la valeur marchande des actions ordinaires de ces institutions augmenta de \$750,000,000 à \$2,850,000,000, soit environ 380 p. 100. Le témoin nota qu'en plus de l'expansion du portefeuille d'actions ordinaires des institutions de placement, il y avait eu, au cours des dix dernières années, une hausse dans la qualité et dans la quantité des services professionnels, mis à la disposition du public grâce aux agents de placements, aux courtiers et aux conseillers techniques.

Quant aux quatre fonds mutuels et à la compagnie de fiducie, dirigés par le groupe Investors, il déclara qu'ils possédaient des titres d'une valeur en bourse d'environ \$730,000,000 dont \$380,000,000 en actions ordinaires du Canada. L'avoir en actions ordinaires comprenait 275,000 actions de la Compagnie Bell, évaluées à environ \$16,500,000. Le Groupe détenait également \$2,900,000 en obligations de cette compagnie.

M. Atchison situa la position du groupe Investors en regard des actions ordinaires de la Compagnie Bell. Le Groupe s'intéressa à ces actions pour la première fois en 1950, moment où elles avaient été fractionnées, mais leur cours n'avait pas encore rejoint le niveau atteint en 1946. On en conclut qu'il y avait plusieurs valeurs canadiennes plus avantageuses et plus sûres. En 1952 cependant, les actions de la Compagnie Bell furent achetées pour *Investors Mutual*, car le procédé bien établi d'émissions régulières de droits de la compagnie était intéressant. Toutefois, entre 1952 et 1958, les actions de la Compagnie Bell n'enregistrèrent qu'une plus-value de 12 p. 100, alors que l'indice des valeurs industrielles de Toronto avait augmenté de 43 p. 100. Pour ces raisons, *Investors Mutual* vint à penser que les actions de la Compagnie Bell étaient davantage des actions privilégiées que des actions ordinaires, et le Fonds mit ses droits en vente, lors de l'émission d'actions de 1959, au lieu de les exercer.

M. Atchison déclara qu'un recensement des actions de la Compagnie Bell, détenues par des compagnies canadiennes de placement, indiquait une montée rapide au début des années 1950, suivie d'une stabilisation marquée révélant une évaluation moins optimiste de ces actions. Cette attitude négative commença à changer à la fin de 1959, lorsque la Compagnie Bell annonça une augmentation de ses dividendes. La nouvelle surprit, car en général, on augmente les dividendes lorsque la tendance à la hausse semble vouloir se poursuivre; or, tel n'était pas le cas. Bien que les bénéfices par action de la Compagnie Bell fussent passés de \$2.15 en 1958 à \$2.48 en 1959, cette hausse n'était ni plus ni moins qu'un retour au niveau moyen des bénéfices des années 1952-1956. Le rendement sur l'avoir des actionnaires qui n'avait fait que diminuer pendant plusieurs années, se stabilisa en 1958, augmenta en 1959 jusqu'à atteindre 7.13 p. 100.

M. Atchison dit que l'A.T. & T. avait annoncé un fractionnement d'actions et sa première augmentation de dividendes, depuis 1922, quelques mois avant que la Compagnie Bell n'annonce sa hausse de dividendes. Bien qu'on ait prétendu que les bénéfices et dividendes de la Compagnie Bell étaient maintenant sur la bonne voie, malgré un léger retard sur ceux de l'A.T. & T., le climat d'incertitude en matière de réglementation décourageait toute estimation optimiste des actions de la Compagnie Bell. En 1960 cependant, la Compagnie Bell augmenta, pour la deuxième année consécutive, le rendement sur l'avoir des actionnaires et des bénéfices par action, en même temps que les immobilisations massives des années antérieures contribuaient aux marges supérieures de bénéfices. La Compagnie semblait aussi prévoir une stabilisation du rythme de son expansion; ainsi, on aurait moins besoin de financement extérieur et ainsi l'avoir des actionnaires s'en trouverait moins dilué. Pour ces raisons, l'*Investors Mutual* conclut que les actions de la Compagnie Bell avaient des chances d'augmenter à longue échéance, et se lança dans un programme d'achat d'actions de cette compagnie pour accroître son portefeuille.

Enfin, M. Atchison déclara que sa compagnie avait reconnu que les mesures prises par la Compagnie Bell pour améliorer à la fois sa structure tarifaire et la qualité de son service; cette appréciation et la conviction que la Commission des transports "reconnaîtrait de plus en plus l'opportunité de permettre à la Compagnie d'augmenter ses bénéfices", et, par conséquent, d'augmenter ses dividendes à la longue, amenèrent l'*Investors Mutual* à accroître sensiblement son avoir en actions ordinaires de la Compagnie Bell, au cours des dernières années. Il souligna que, si les perspectives d'accroissement des bénéfices et dividendes de la Compagnie Bell étaient moins encourageantes, on pourrait en mesurer les conséquences à l'attitude des actionnaires, et que telle éventualité nuirait à la Compagnie lors de ses émissions périodiques d'actions.

Pendant le contre-interrogatoire, M. Atchison dit qu'il aurait dû définir le climat en matière de réglementation comme peu satisfaisant plutôt qu'incertain en ce qui concerne la Compagnie Bell. De plus, un actionnaire ne jugera jamais de la valeur d'une action en prenant comme critère les taux de rendement de la valeur aux livres; son premier souci est de savoir si les bénéfices par action augmenteront dans les cinq ou dix prochaines années.

k) Besoins de bénéfices de la Compagnie

M. Arnold J. Groleau, vice-président – services financiers de la Compagnie, fit un compte rendu des besoins de bénéfices de la Compagnie. Selon lui, la perspective de réaliser de bons bénéfices avait encouragé l'administration à mettre au point des méthodes d'exploitation nouvelles et plus efficaces, et une planification à longue échéance, assurant ainsi de meilleurs produits à des prix inférieurs sur une longue période. A cause d'un besoin croissant de capitaux frais, la Compagnie se devait d'entretenir un intérêt pour ses valeurs sur le marché, et ce n'est qu'en ayant des bénéfices pour le moins comparables à ceux des autres compagnies qu'elle atteindrait ce but.

M. Groleau a prétendu qu'une diminution des profits correspond à une diminution des immobilisations; la pièce justificative B-59 montre qu'en général le cours des immobilisations des entreprises est similaire à celui des profits des compagnies. En contre-interrogatoire, cependant, il admit que les immobilisations et les bénéfices de la Compagnie ne supposaient pas les mêmes relations que celles du document B-59.

Depuis 1949, la Compagnie a dû emprunter \$1,500,000,000 sur le marché des capitaux, soit \$703,000,000 en obligations et \$850,000,000 en actions ordinaires, soit en moyenne environ \$100,000,000 d'émissions par année. De 1949 à 1958, les émissions furent de \$769,000,000; \$328,000,000 en obligations et \$441,000,000 en actions ordinaires. Ce qui représentait 4.7 p. 100 de toutes les obligations, et 17.3 p. 100 de toutes les actions ordinaires, émises par les industries canadiennes. De janvier 1959 à décembre 1964, la Compagnie s'est

procuré \$784,000,000 dont \$375,000,000 en obligations et \$409,000,000 en actions ordinaires. Ces émissions représentaient 7.9 p. 100 des émissions de nouvelles obligations et 22.7 p. 100 des émissions d'actions canadiennes.

Au cours des dernières années, la Compagnie a dû faire face à un coût de la dette relativement plus élevé. Depuis 1959, les frais des émissions de la Compagnie Bell ont varié entre 5.46 p. 100 et 6.43 p. 100, alors que durant les dix années précédentes, les frais de toutes les émissions, sauf une, s'échelonnaient entre 3.29 p. 100 et 4.70 p. 100. Le même fait se produisait en ce qui concerne la vente d'émissions aux États-Unis. En 1958, le coût en était de 4.18 p. 100 et en 1964, 4.82 p. 100. Depuis la fin de 1958, le coût de la dette à long terme de la Compagnie Bell est passé de 3.89 p. 100 à 4.81 p. 100. Ainsi, on a prétendu que le coût plus élevé de la dette augmenterait les risques des détenteurs d'obligations en diminuant la moyenne de "couverture des intérêts sur les obligations". Depuis 1952, la couverture des frais d'intérêts par les bénéfices de la Compagnie Bell a diminué, aussi bien avant qu'après déduction des impôts. Une telle situation, si elle venait à se prolonger, affecterait le taux de crédit des obligations de la Compagnie et augmenterait encore le coût de la dette.

Le témoin souligna l'importance d'un bon taux de crédit relativement au financement du programme de construction de la Compagnie, dans les cinq prochaines années, et au remboursement de la dette échue, d'ici une plus grande période de temps. Dans les cinq prochaines années, il faudra réunir environ un demi-milliard de dollars pour la construction, une partie importante de cette somme étant obtenue sous forme d'emprunts. La Compagnie devra rembourser, d'ici vingt-cinq ans, sa dette actuelle de \$735,000,000. Pour cela, il va lui falloir recourir à des financements par obligations pendant 18 des 25 prochaines années. La Compagnie devra aussi obtenir des capitaux considérables par l'émission d'actions, et ce, fréquemment.

Bien que le rendement des bénéfices de la Compagnie pendant les années 1949-1958 ne fût pas celui des autres industries canadiennes (ce rendement étant évalué en pourcentage de bénéfices sur les actions ordinaires), la Compagnie a néanmoins obtenu les capitaux nécessaires grâce au concours de circonstances favorables. C'est-à-dire: paiements continus de dividendes durant une longue période; perspectives d'expansion de l'industrie téléphonique, après la guerre, dues aux demandes accumulées de service; émissions de droits associées aux fréquentes ventes d'actions; conditions de marché favorables; inflation favorisant les placements d'avoir propre qui, avec les perspectives de plus-value, luttèrent contre l'inflation.

M. Groleau déclara qu'on ne pourrait pas compter autant sur les droits dans l'avenir, car les émissions de nouvelles actions représenteraient dorénavant une partie minime du capital fondamental. Les quatre émissions d'actions entre 1949 et 1953 offraient un droit d'une nouvelle action pour chaque cinq actions

en circulation; les quatre émissions suivantes offraient un droit d'une action nouvelle pour cinq en circulation, ou de une pour huit; et les deux dernières émissions offraient un droit d'une nouvelle action pour douze. Cette tendance va se poursuivre, et par conséquent, l'apport de droits pour la rémunération de l'actionnaire continuerait à diminuer.

En ce qui concerne les conditions du marché, M. Groleau affirma que le faible rendement de bénéfices pendant les années 1950 avait fait baisser le prix courant des actions de la Compagnie Bell. Les bénéfices sur l'avoir propre ordinaire tombèrent de 8.21 p. 100 en 1953 à 6.21 p. 100 en 1958. Le cours du marché était tel que, pour obtenir du capital d'équité, la Compagnie avait dû émettre en 1957 et en 1959 de nouvelles actions au-dessous de la valeur aux livres, ce qui avait réduit l'avoir propre comptable des actionnaires. Pour que ses actions continuent à faire concurrence, la Compagnie, à la fin de 1959, avait augmenté le taux annuel de son dividende de \$2 à \$2.20. Des bénéfices supérieurs avaient rendu possible des dividendes supérieurs.

Entre 1959 et 1964, le taux des bénéfices sur les actions ordinaires avait augmenté de 6.2 p. 100 à 7.4 p. 100. Cette amélioration, jointe à une plus grande valeur nette par action, avait provoqué une augmentation de \$2.71 des bénéfices par action. Pendant cette période de six ans, les bénéfices par action avaient atteint une moyenne de \$2.58 et les investisseurs ont été favorablement influencés par la perspective d'améliorations futures.

La Compagnie doit sa réussite dans le domaine du financement depuis 1958 en partie au déclin du volume global de financement des compagnies, ce qui lui avait permis d'établir un prix d'émission, pour les nouvelles actions, au-dessus de la valeur aux livres de l'avoir propre ordinaire. Mais cette situation était en voie de changer et la Compagnie a dû réunir, en l'espace de cinq ans, un demi-milliard de dollars malgré les difficultés causées par la concurrence. Encore aujourd'hui, la concurrence sur le marché financier se fait plus vive. Le Gouvernement fédéral encourageait les compagnies étrangères à offrir aux actionnaires canadiens une part de leur capital-actions, et dans l'État du Québec, plusieurs entreprises mixtes se sont formées. Mais on se demandait avec inquiétude si on aurait suffisamment de capital dans les années à venir, vu la Balance déficitaire des paiements aux États-Unis. Devant les difficultés de la concurrence sur les marchés financiers, on a prétendu qu'il fallait que les bénéfices de la Compagnie soient comparables à ceux des autres industries, surtout depuis que les actionnaires usaient de plus en plus de prudence dans le choix de leurs placements. En effet, le rôle croissant des investisseurs professionnels se faisait sentir davantage: en 1958, 28 p. 100 des actions de la Compagnie Bell appartenait à des institutions de placement et à la fin de 1964, ce pourcentage avait atteint 35 p. 100.

M. Groleau croit que pour affronter la concurrence financière, la Compagnie doit avoir un niveau plus haut de bénéfices, niveau dont le taux de rendement serait comparable à celui d'autres actions ordinaires, compte tenu évidemment des risques. A son avis, l'acheteur d'actions ordinaires s'attend à recevoir le même rendement des services publics que des industries, puisque, aux différents risques d'exploitation correspondent différentes structures financières qui compensent ainsi les risques.

M. Groleau pense qu'on ne peut pas déterminer mathématiquement un niveau adéquat d'un rendement équitable et raisonnable pour la Compagnie Bell, mais qu'on peut cependant établir les limites entre lesquelles il serait raisonnable; la limite inférieure garantissant au moins le pouvoir d'achat du capital et du revenu de l'actionnaire.

La pièce justificative B-65, déposée par M. Groleau, est une analyse détaillée des 66 compagnies manufacturières inscrites aux Bourses de Montréal et de Toronto, grâce à des renseignements exacts couvrant la période 1946-1963. Ce document indique que la plupart des compagnies ont réussi, et davantage, à maintenir la valeur initiale du capital et du revenu de leurs actionnaires, l'accroissement de leur valeur aux livres et de leurs dividendes dépassant l'augmentation de 71.6 p. 100 de l'indice des prix aux consommateurs.

Selon lui, la Compagnie Bell ne put maintenir, entre 1946 et 1963, l'intégrité des placements de ses actionnaires. La valeur aux livres de l'avoir des actionnaires et les dividendes augmentèrent de 11.6 p. 100, alors que l'indice des prix aux consommateurs indiquait une augmentation de 71.6 p. 100. Même en tenant compte de la valeur des droits, les placements ne représentèrent qu'une amélioration de 47.9 p. 100. Ainsi, les actionnaires avaient subi une perte réelle de valeur de leurs placements, et la valeur des droits ne compensait nullement l'insuffisance des bénéfices. Entre 1946 et 1963, la Compagnie Bell enregistra un taux de 6.8 p. 100 sur son capital-actions, taux bien au-dessous du taux de bénéfices de 11.7 p. 100 des compagnies en bonne voie de développement; taux même au-dessous du taux de 8 p. 100 réalisé par des compagnies qui, d'après la pièce justificative B-65, n'ont même pas su maintenir l'intégrité des placements de leurs actionnaires.

Pour atteindre ce taux équitable et raisonnable de bénéfices, la Compagnie, selon M. Groleau, devrait faire des bénéfices d'au moins 8.4 p. 100 sur ses actions ordinaires. Ce taux de 8.4 p. 100, qui est un taux minimum requis pour maintenir l'intégrité des placements des actionnaires, a été réalisé par les compagnies canadiennes mentionnées dans la pièce justificative B-66. Un taux d'environ 8.5 p. 100, bien qu'inférieur aux taux moyens de nombreuses industries entre 1949 et 1963, donnerait néanmoins à la Compagnie l'occasion d'améliorer ses bénéfices par action, si elle veut garder l'intérêt des actionnaires dans ses actions ordinaires. Il faut considérer un tel niveau de bénéfices en fonction des

importantes demandes que la Compagnie fera sur le marché financier, et de la concurrence à réunir des fonds d'immobilisation.

Depuis 1959, le taux de bénéfices de la Compagnie sur les actions ordinaires s'est amélioré, 7.4 p. 100 en 1964, mais demeure encore bien au-dessous de ce que la Compagnie considère être le taux minimum de bénéfices.

M. Groleau fit remarquer que la Compagnie a \$735,000,000 d'obligations en circulation, au coût permanent de 4.8 p. 100. Et ce coût, associé aux bénéfices de 8.5 p. 100 sur les actions ordinaires et un rapport de la dette de 40 p. 100 répondent au taux général de bénéfices de 7 p. 100, jugé raisonnable par la Compagnie.

Au cours du contre-interrogatoire, M. Groleau a déclaré que ses chiffres pour le pourcentage du rendement sur les actions ordinaires avaient été calculés d'après le capital propre moyen de chaque année. Quant au taux de rendement de 7 p. 100 sur le capital-total, il a considéré ce taux comme étant un minimum, mais il n'a pu dire quel pourrait être le taux maximum dans des conditions ultérieures qu'il ne pouvait prévoir. Le taux de rendement sur l'avoir des actionnaires était, a-t-il estimé, le pouvoir qu'a l'argent de procurer des gains dans les affaires. Conséquemment, il a négligé l'avantage que constituent les droits en tant que profit, ou partie d'un profit, puisque de tels droits ne proviennent pas de bénéfices d'investissements dans l'entreprise. A ce sujet, il a déclaré que, au cours de la période qui a commencé en 1946, une personne qui avait des actions de la compagnie Bell a acquis des droits d'une valeur annuelle moyenne de \$0.75 par action.

2. RÉSUMÉ DES PREUVES INVOQUÉES

(ii) PAR *UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA* LORS DES AUDIENCES

Le syndicat a soumis un mémoire dans lequel il prétendait que la situation des bénéfices de la Compagnie Bell était déjà plus que satisfaisante, et que des bénéfices supérieurs ne pourraient provenir que de taux plus élevés pour le téléphone ou de retenues, par la Compagnie, d'épargnes sur les prix de revient qu'il y aurait lieu de répartir parmi les usagers de ces services; que les besoins financiers de la Compagnie de téléphone Bell n'étaient pas, de façon générale, sujets à l'épreuve du marché des actions parce que le "marché" des valeurs de la Compagnie de téléphone Bell était essentiellement captif, se composant des actionnaires actuels de cette Compagnie ou des Institutions financières connexes, que les bénéfices de la Compagnie avaient été suffisamment convenables pour qu'elle puisse vendre ses obligations; que les actions ordinaires de la Compagnie de téléphone Bell étaient mieux cotées que celles de la plupart des services publics; et que la réglementation des bénéfices de la compagnie de téléphone Bell n'avait aucun sens parce qu'elle ne comportait aucun contrôle sur les dépenses de cette entreprise.

Le syndicat a prétendu que la requête de la Compagnie de téléphone Bell demandant un taux de rendement de 7 p. 100 sur le capital-total devrait être rejetée; que la réglementation de la Compagnie devrait permettre à la Commission d'analyser méticuleusement les dépenses de la Compagnie de téléphone Bell ainsi que les transactions effectuées entre compagnies; que la Commission devrait examiner les tarifs de la Cie Bell afin de s'assurer que les économies sur les prix de revient soient transférées au public; et que La Compagnie de Téléphone Bell du Canada devrait être nationalisée.

2. RÉSUMÉ DES PREUVES INVOQUÉES

(iii) PAR LE PARTI COMMUNISTE DU CANADA LORS DES AUDIENCES

Le parti communiste du Canada a prétendu qu'aucune augmentation du niveau autorisé des bénéfices, augmentation qui provoquerait inévitablement une hausse des tarifs téléphoniques, ne se justifiait; qu'on devrait procéder à une étude des opérations de la Compagnie à l'échelle nationale, y compris la structure actuelle des tarifs, la structure du capital, les méthodes commerciales et la déontologie professionnelle, ainsi que l'importance du contrôle étranger; qu'une telle étude devrait comporter une analyse qui permettrait de déterminer si oui ou non l'intérêt du public ne serait pas mieux servi par la nationalisation de la Compagnie, ainsi que de toutes ses filiales, et que, en attendant une telle étude publique, la Commission devrait instituer une commission consultative publique qui la conseillerait dans toutes les questions relatives à la Compagnie.

2. RÉSUMÉ DES PREUVES INVOQUÉES

(iv) PAR *INDUSTRIAL WIRE & CABLE COMPANY LIMITED* LORS DES AUDIENCES

Deux témoins ont comparu au nom de *Industrial Wire & Cable Company Limited*: M. Lionel W. Thatcher, professeur de commerce et d'économie à l'Université du Wisconsin, et M. W.A. Simonton, associé de l'entreprise *Price, Waterhouse and Company*, Toronto, comptables agréés. Leur témoignage avait évidemment trait au rapport existant entre la Compagnie Bell et la *Northern Electric Company Limited*.

M. Thatcher a émis l'opinion que le principe suivant lequel les transactions entre une société réglementée et une filiale sont sujettes à revision, et que les prix des marchandises ou des services fournis par la filiale sont sujets à des redressements ou à des rejets par l'organisme de réglementation, était généralement accepté aux États-Unis, comme en font foi les dispositions statutaires et les décisions des tribunaux. A ce sujet il a parlé des études conjointes touchant la Compagnie *Western Electric*, filiale de l'*American Telephone and Telegraph Company*, qui ont été effectuées de temps à autre par des comités de la *Federal Communications Commission* ainsi que par la *National Association of Railroad*

and Utilities Commissioners, et il a déposé comme pièce à conviction un document intitulé "Data for 1963 Prepared by Western Electric Company, Inc., at the Request of Joint NARUC-FCC Subcommittee".

Étant donné l'absence de marchandage entre les deux compagnies, le témoin a déclaré qu'il croyait fermement que le coût des services et des biens fournis à la Compagnie de téléphone Bell par *Northern Electric* étaient plus important que des comparaisons de prix pour déterminer si les prix de *Northern* étaient raisonnables. Il n'existait pas de prix concurrentiels pour les biens ou les services en question et le fait que Bell était un client sûr à l'égard duquel *Northern* encourait peu de frais de vente, devait certainement permettre à *Northern* d'adapter l'expansion des usines ainsi que sa production de façon à réaliser des économies d'échelle et des coûts d'exploitation à l'unité inférieurs et ces avantages pourraient éventuellement faire disparaître la concurrence comme facteur de détermination des prix.

M. Thatcher a soutenu que les prix demandés par *Northern* à Bell devraient comporter un rendement raisonnable sur le capital d'exploitation de *Northern*, et qu'un tel rendement devrait ordinairement se situer à un niveau comparable à celui des autres entreprises comportant des risques semblables. Cependant, il a dû nuancer cette déclaration, en disant que le rendement obtenu par *Northern* sur les ventes faites à la Compagnie Bell devraient être à peu près comparable au niveau autorisé des bénéfices permis à la Compagnie Bell.

Il a aussi recommandé que la Commission obtienne de la *Northern Electric Company* des renseignements comparables à ceux qui ont été fournis au sous-comité conjoint NARUC-FCC par *Western Electric Company*. De tels renseignements comprendraient des données relatives aux ventes en tenant compte des principales catégories de produits, ainsi que de la répartition du rendement sur les placements tant en ce qui a trait aux transactions avec la Compagnie Bell qu'à celles avec d'autres compagnies. Si on effectuait une répartition convenable, sans essayer de classifier chaque article distinct de dépenses, on pourrait arriver à un résultat raisonnable sans qu'il y ait des dépenses exorbitantes.

En terminant, M. Thatcher a déclaré que les bénéfices réalisés par *Northern Electric* ne devraient pas être compris dans les revenus consolidés de Bell, de façon à diminuer les besoins de rémunération de l'exploitation du service téléphonique. Étant donné qu'environ 40 p. 100 des ventes de *Northern* ont été effectuées à des clients autres que Bell, il n'y avait aucune raison pour que les bénéfices réalisés sur ces ventes servent à réduire la proportion des besoins de rémunération de l'exploitation du service téléphonique Bell, ni pour qu'une perte subie lors d'une vente à des entreprises autres que la Compagnie Bell serait supportée par l'exploitation du service téléphonique sous la forme de besoins de rémunération accrus.

Au cours d'un contre-interrogatoire, on a signalé à M. Thatcher que la *Northern Electric Company* était une filiale de Bell en propriété exclusive; les dividendes de *Northern* revenaient nécessairement à Bell; et que tous ces dividendes avaient été calculés par la Commission dans le passé lorsqu'elle déterminait le niveau des bénéfices permis à Bell. On a demandé au témoin s'il ne voulait pas laisser entendre que les bénéfices réalisés par *Northern* dans des transactions où Bell n'avait rien à faire devraient maintenant parvenir par l'intermédiaire du Bell aux actionnaires de Bell, mais son opinion à ce sujet n'a pu être catégorique.

M. W.A. Simonton, le témoin expert en comptabilité a fait la critique de la pièce justificative B-52 soumise par Bell, la vérification des prix des ventes de *Northern* au commerce général qui démontrait que les prix offerts à Bell sont inférieurs à ceux offerts aux autres clients, et a déclaré qu'une telle étude était tout à fait insuffisante pour permettre de juger si oui ou non les prix payés par Bell à *Northern* sont raisonnables. Il a souligné que les comparaisons des prix avaient trait à des catégories de vente de *Northern* qui représentaient seulement un tiers des ventes faites par *Northern* aux clients ordinaires. Bien que l'étude ait mis en évidence que certaines catégories ont été exclues de l'analyse parce que Bell n'achète pas ordinairement ces catégories de produits en quantité importante, aucune explication n'a été donnée pour certaines autres catégories exclues.

Le témoin a affirmé que les avantages les plus importants pour *Northern* découlaient de coûts inférieurs et de son aptitude à planifier la production et à organiser des opérations à grande échelle, étant donné le volume de ventes à long terme assuré à l'égard de Bell. *Northern* bénéficierait également, selon lui, de frais réduits de vente, de publicité et de distribution, lors des ventes effectuées à Bell, par comparaison avec les autres acheteurs. Tous ces avantages influeraient sur les coûts et les dépenses de *Northern*, et sans un examen de ces coûts et dépenses, il serait impossible de dire si les prix demandés par *Northern* à Bell étaient raisonnables. Par prix raisonnables demandés à Bell, le témoin a déclaré vouloir dire des prix qui assureraient un bénéfice raisonnable à *Northern*, et non simplement des prix inférieurs à ceux que *Northern* exige d'autres clients.

Selon M. Simonton, il était possible à *Northern* de réaliser des profits exorbitants sur les ventes faites à Bell tout en satisfaisant aux exigences du contrat entre Bell et *Northern* selon lequel les ventes faites à Bell doivent l'être aux prix les plus bas que *Northern* peut faire à ses clients les plus favorisés pour des fournitures et des services comparables. Il a parlé de la pièce justificative B-52 soumise par Bell, qui met en relief des comparaisons de prix d'appareils téléphoniques vendus par *Northern*, la *Western Electric Company*, et quatre autres fabricants américains, et il a constaté que, comme les prix de *Western*

étaient environ 130 p. 100 inférieurs à ceux des quatre autres fabricants américains, *Western* pourrait augmenter ses prix de 100 p. 100 tout en satisfaisant les conditions du contrat selon lesquelles les prix qu'elle peut exiger des filiales américaines de Bell doivent être inférieurs à ceux exigés des autres compagnies. *Northern* pourrait de la même façon vendre à Bell du Canada à des prix inférieurs à ceux qu'elle exige de ses autres clients tout en réalisant des bénéfices exorbitants sur les ventes à la Compagnie Bell et la comparaison des prix n'apporterait aucune preuve de cela. De telles comparaisons ne pourraient remplacer un examen rigoureux des coûts et des dépenses pour les produits et les services vendus par *Northern* à Bell.

Le témoin a exprimé l'avis qu'un bénéfice raisonnable réalisé par *Northern* sur les ventes faites à Bell consisterait en un profit qui rapporterait à *Northern* le même taux de rendement sur le capital employé pour la fabrication et la vente de produits à Bell conformément au taux de rendement autorisé sur les capitaux employés par Bell. Cependant, il a poursuivi en faisant des distinctions déclarant que, même si le taux global de rendement du capital de *Northern* n'est pas supérieur à celui de Bell, on ne peut présumer que les bénéfices de *Northern* n'étaient pas exorbitants parce que les bénéfices nets des ventes de *Northern* à Bell pourraient être notoirement supérieurs à ceux réalisés sur les ventes faites aux clients ordinaires.

En terminant, M. Simonton a déclaré que des lignes de conduite selon lesquelles les prix sont déterminés entre *Northern* et Bell, qui ont eu pour résultat d'augmenter les bénéfices de *Northern* profiteraient à Bell et à ses abonnés seulement dans la mesure où de tels bénéfices seraient finalement payés à Bell à titre de dividendes. Cependant, les futurs dividendes ne pourraient être payés à Bell qu'en autant qu'ils ont été déclarés par les administrateurs de *Northern*. Il était également possible que l'expansion des affaires de *Northern* par la voie des bénéfices réinvestis pourrait constituer un rendement négligeable sur de tels fonds, ou que, dans certains cas on pourrait encourir des pertes.

Lors du contre-interrogatoire, le témoin a admis que le taux de rendement de *Northern* sur des transactions avec des clients autres que Bell devrait être laissé au jugement des administrateurs de *Northern* et ne devrait pas faire l'objet d'une réglementation. L'avocat de la Compagnie Bell lui a laissé entendre qu'il serait facile de faire mathématiquement la preuve au moyen de la pièce justificative N° 88 de Bell que la proportion de tous les bénéfices de *Northern* payés en dividendes à Bell dépassait la proportion des transactions entre Bell et *Northern* par rapport à toutes les transactions. Le témoin a admis qu'il en était ainsi, mais il a refusé d'accepter aucune conclusion ou déduction d'un tel calcul et a déclaré n'avoir vu aucune preuve soumise par Bell selon laquelle des dividendes que Bell obtient de *Northern* constituaient un indice juste des bénéfices réalisés par *Northern* sur les ventes faites à Bell. Il a aussi exprimé l'avis

que ce qu'il en coûterait pour obtenir les données nécessaires lui permettant de porter un jugement quant au prix raisonnable des ventes faites par *Northern* à Bell ne serait pas prohibitif. Pour ce qui est des bénéfices réinvestis de *Northern*, il a estimé que s'ils étaient utilisés de façon sage et profitable, les actionnaires de Bell pourraient en profiter, et cela pourrait apporter des bénéfices supplémentaires et des dividendes accrus au cours des années.

2. RÉSUMÉ DES PREUVES INVOQUÉES PAR

(v) LA FÉDÉRATION CANADIENNE DES MAIRES ET DES MUNICIPALITÉS, ET AUTRES, LORS DES AUDIENCES

Le principal témoignage apporté au nom de la Fédération canadienne des maires et des municipalités, de l'Association ontarienne des maires et des préfets de l'Ontario, de l'Association municipale de l'Ontario, de l'Union des municipalités du Québec, et d'environ 105 conseils municipaux de l'Ontario et du Québec, a été déposé par M. M.W. Van Scoyoc, président de *Van Scoyoc & Wiskup, Inc.*, conseiller en services publics à Washington, D.C. Un témoignage a aussi été apporté par M. Georges-Émard Courville, un employé de la cité de Montréal qui avait pour fonction de s'occuper des problèmes relatifs aux services publics.

M. Van Scoyoc a constaté que la proposition de Bell tendant à modifier le procédé selon lequel on détermine le niveau autorisé des bénéfices, qui étaient autrefois déclarés en terme de dividendes monétaires et de surplus par action, pour un taux de rendement sur la moyenne de la capitalisation totale, nécessiterait des sondages afin de déterminer ce qui serait juste et équitable tant pour les provisions du capital-obligations que du capital-actions. Il a déclaré ne connaître aucune entreprise de services aux États-Unis dont le taux de rendement admissible était déterminé d'après une allocation pour les dividendes et un surplus par action, et il ne connaissait qu'un seul cas où la capitalisation totale moyenne est couramment utilisée comme base des bénéfices. Au moins les deux tiers des Commissions américaines habilitées à réglementer utilisent présentement le prix de revient initial, moins l'amortissement couru pour déterminer la base de taux et, dans la plupart des cas, il en résulte une base de tarifs correspondant à la moyenne de la capitalisation totale, bien que la détermination d'une telle base de tarifs soit généralement plus compliquée que le procédé de capitalisation.

Le témoin a signalé que les mémoires présentés par la Compagnie Bell le 28 novembre 1964, et sa lettre adressée à la Commission en date du 22 décembre 1964, ne contenaient aucun motif expliquant vraiment pourquoi le procédé que cette entreprise emploie ordinairement pour déterminer le niveau autorisé de bénéfices s'est révélé désavantageux à l'égard des actionnaires ou des abonnés. Les recherches qu'il a effectuées lui-même à ce sujet n'ont rien apporté qui

justifieraient un changement au procédé actuel. Cependant, il a admis que la méthode des bénéfices par action ainsi que le taux de rendement sur la capitalisation moyenne constitueraient toutes deux une façon également objective de déterminer les exigences financières de la Compagnie Bell et un moyen suffisant et pratique pour déterminer le niveau des bénéfices.

Selon M. Van Scoyoc, le niveau autorisé des bénéfices ou le taux équitable de rendement autorisé, ne doit que suffire à attirer les capitaux nécessaires pour satisfaire aux besoins du service des clients. Pour arriver à cela, les taux d'une entreprise de services devraient être déterminés de façon à rapporter un revenu suffisant pour couvrir toutes les dépenses d'exploitation justifiables, plus un montant suffisant pour couvrir le coût en capital. Selon sa définition, le coût en capital découle des dépenses encourues pour obtenir des fonds auprès des actionnaires. Les coûts étaient représentés par le taux réel d'intérêt des obligations, et par le taux des dividendes sur les actions privilégiées, mais la détermination du coût en capital effectif composé des actions ordinaires causait un problème plus compliqué nécessitant l'exercice du jugement. Bien que les expressions "coût en capital, taux de rendement et niveau autorisé de bénéfices" n'aient pas nécessairement la même signification, il devrait ordinairement y avoir peu de différence entre le sens de ces diverses expressions.

M. Van Scoyoc a déclaré qu'il se proposait de déterminer le caractère raisonnable d'une provision pour actions ordinaires en se servant de a) rapports entre les bénéfices et le produit net, b) les rapports entre les bénéfices et le prix, et c) les rapports entre les dividendes et le prix, méthodes qui, déclare-t-il, ont été généralement utilisées et acceptées comme moyen suffisant pour déterminer le coût du capital-actions.

Au sujet du prorata actuel de la dette de Bell, il a estimé que la structure du capital de la Compagnie était indûment conservatrice et que la proportion de la dette à long terme pourrait être accrue et permettrait de réaliser des économies d'exploitation. Il a déclaré que, au cours de la période allant de 1959 à 1964, le prorata de la dette de Bell avait varié de 35.6 p. 100 à 44.6 p. 100, et que la couverture de sa dette avait varié de 2.4 fois à 4.2 fois; au cours des cinq dernières années, le prorata de la dette avait été en moyenne de 40.8 p. 100 et la couverture de la dette avait établi une moyenne de 3.2 fois.

On a établi une comparaison entre le prorata de la dette de Bell et celui des autres entreprises de service téléphonique, le service d'électricité ainsi que les entreprises de distribution de gaz naturel et des compagnies de transmission. A l'exception de la *British Columbia Telephone Company*, toutes ces compagnies étaient situées aux États-Unis, et toutes ces entreprises, sauf les compagnies exploitantes Bell aux États-Unis, accusaient un prorata de dette supérieur à 40 p. 100.

M. Van Scoyoc a déclaré que la pratique du faible prorata de la dette de ces compagnies exploitantes Bell avait fait l'objet de critiques, tant dans les milieux financiers que dans les Commissions de réglementation, et un certain nombre de Commissions de réglementation d'états américains avaient utilisé des structures théoriques de capital comportant un montant de dettes plus élevé comme moyen de déterminer le coût général en capital.

Selon M. Van Scoyoc, il est essentiel aux fins de la réglementation que le coût en capital d'une entreprise de services publics soit raisonnable, parce que de façon générale ce coût constitue le poste le plus considérable. Il a déclaré qu'un prorata de la dette variant de 45 à 55 p. 100 de la capitalisation totale ne serait pas exagéré ou injustifiable et il a supposé que, si Bell devait augmenter le prorata de sa dette, les besoins futurs de capitaux seraient pour une bonne part satisfaits par l'émission d'obligations jusqu'à ce que le prorata de la dette atteigne environ 50 p. 100. Pour arriver à cette fin, il faudrait ajouter environ \$360,000,000 de capital-obligations, sans aucune émission d'actions. Si on procédait à cette augmentation sur une période de 3 ou 4 années, un maximum d'un dixième de 1 p. 100 au-dessus du taux courant qu'a connu la Compagnie Bell en 1964 serait finalement ajouté au coût de la dette additionnelle. Étant donné que la différence du rendement entre les *Moody's Aa* et les cotes A pour les obligations des entreprises des services publics est ordinairement de 0.07 p. 100, le coût moyen de la dette combinée existante et de la dette additionnelle serait d'environ 4.85 p. 100.

A ce sujet, M. Van Scoyoc a déclaré qu'il avait songé aux risques inhérents à la baisse possible des revenus et du revenu d'exploitation au cours d'une dépression, en supposant que la structure du capital de Bell se composait de 50 p. 100 d'obligations et de 50 p. 100 d'actions. Les études qu'il avait effectuées l'avaient amené à conclure que de tels risques ne seraient pas tellement différents de ceux qui peuvent survenir dans la structure actuelle du capital et il a exprimé l'avis que cela ne justifierait pas un coût plus élevé du capital inhérent à la structure actuelle du capital, coût plus élevé qui doit être supporté par les abonnés.

En guise de preuve du caractère raisonnable d'une provision pour les actions ordinaires de la Compagnie Bell, M. Van Scoyoc a présenté un nombre de pièces justificatives, établissant les comparaisons; a) des rapports annuels moyens entre les bénéfices et les prix; b) des rapports entre les bénéfices par action et le produit net; c) des calculs des rapports entre les bénéfices et les prix, en se fondant sur les bénéfices prévus; d) des rapports entre la valeur marchande et la valeur comptable des actions de Bell, e) des frais d'émission d'actions en tant que pourcentage du produit brut; f) pourcentage de pression boursière tant sur les émissions de droits que sur les offres publiques d'actions de services publics; et g) au sujet de la Compagnie Bell, des rapports entre les excédents

et les dividendes par action, des rapports entre les dividendes et les versements et des proportions de l'excédent par rapport aux actions ordinaires et aux primes.

L'annexe n° 9, déposée par M. Van Scoyoc, indique les rapports moyens annuels entre les bénéfices et les prix de douze entreprises de service téléphonique choisies ainsi que la Compagnie Bell pour chacune des douze années de 1953 à 1964, ainsi qu'une moyenne générale pour la période. Selon le témoin, il a fallu déterminer les rapports moyens entre les bénéfices et les prix pour une période de douze ans parce que les rapports établis pour une seule année, comme 1964, ne constitueraient que des rapports sporadiques; une plus longue période aurait plus de valeur car elle équilibrerait les fluctuations du marché à court terme. Il a signalé qu'il y a eu une tendance générale à la baisse des rapports bénéfices-prix au cours de la période choisie et que le rapport moyen bénéfices-prix pour Bell au cours de la même période était inférieur à ceux de toute autre entreprise comprise dans le document. Cependant, il a signalé que de tels rapports constituent un critère valide des bénéfices par action que l'actionnaire touchera vraisemblablement; sous réserve, bien entendu, des conséquences de l'accroissement normal, des dépenses relatives à l'émission d'actions et de la pression du marché. Très peu d'actions de services publics ont été achetées à titre de valeurs spéculatives; ces placements sont généralement considérés comme étant à long terme et plusieurs d'entre eux ont été classifiés comme actions à revenus.

Selon M. Van Scoyoc, le coût du capital-actions, au moment où il a été placé dans l'entreprise, était le rapport entre les bénéfices par action et le produit net par action à la date de l'émission, pourvu que l'émission ait eu lieu au moyen de soumissions ou de souscriptions. Si les offres de droits étaient faites à un prix fixe inférieur au prix du marché, le rapport entre les bénéfices par action et le produit net par action avait peu d'influence dans la détermination du coût du capital-actions. D'une façon générale le coût du capital obtenu au moyen d'émissions de droits était supérieur à ce qu'il était lorsque les prix d'émission et les prix courants étaient plus étroitement liés.

Parce que les émissions de droits sont très répandues dans le cas des entreprises de service téléphonique, il fallait utiliser les rapports bénéfices-prix ou les rapports dividendes-prix découlant des émissions d'actions d'autres entreprises de services publics.

M. Van Scoyoc a aussi déclaré que les rapports bénéfices-prix ne déterminent pas le prix de revient total du capital-actions à cause de l'influence de deux facteurs: a) le coût d'émission, et b) la pression boursière. Il faudrait tenir compte de ces deux facteurs lorsqu'on utilise les rapports bénéfices-prix comme indice du coût du capital effectif. Comme les rapports bénéfices-prix provenaient des prix du marché, il a fallu adapter au coût du financement. Bien plus, le niveau autorise de gains sur les actions ordinaires devait être suffisant pour attirer d'autres sources de capital-actions. M. Van Scoyoc avait calculé la relation de

taux existant entre les dépenses relatives à l'émission d'actions et le montant brut des dix dernières émissions d'actions de Bell et avait constaté que cette relation constituait une moyenne de 0,26 p. 100. En ce qui a trait au cours de bourse du capital souscrit d'un service public à la suite d'une nouvelle émission, le témoin a dit qu'il avait calculé le pourcentage négatif de pression boursière pour chacune des quatre émissions de droits des valeurs du Bell. Au cours d'un contre-interrogatoire, cependant, il a admis que les pressions négatives qu'il avait indiquées étaient erronées et que, au contraire, les pressions boursières sur les nouvelles émissions d'actions de Bell avaient été positives.

M. Van Scoyoc a déclaré que d'après lui on devrait allouer 5 p. 100 pour les dépenses de financement et 3,5 p. 100 pour la pression boursière soit un total de 8,5 p. 100, qui constituerait un rajustement convenable aux rapports moyens bénéfices-prix de Bell et des autres compagnies de téléphone qui figurent à l'annexe n° 9. Cependant, il ne favoriserait pas une allocation semblable si le coût indiqué de capital effectif se fondait sur les rapports entre les bénéfices et le montant net, parce que de tels rapports comprennent automatiquement le coût du financement et la pression boursière.

En ce qui a trait au rapport entre l'excédent par action et les dividendes par action de la Compagnie Bell, le témoin a constaté qu'il n'était pas aussi élevé que ceux de bien d'autres entreprises de services publics dont les pratiques relatives aux dividendes étaient déterminées par les besoins d'expansion et l'augmentation possible des bénéfices par action, mais il estimait que cela fournissait une protection suffisante pour le maintien des dividendes au niveau courant même si une baisse économique sérieuse devait affecter les bénéfices. Selon lui, l'accumulation d'un excédent devrait augmenter quelque peu proportionnellement à l'augmentation du capital-actions et de la prime afin d'éviter la réduction de l'excédent pour chaque action par l'émission d'actions supplémentaires. L'excédent par action de la Compagnie Bell avait, en fait, augmenté au cours de la période allant de 1949 à 1964 à un taux légèrement plus élevé que l'augmentation de son capital-actions et de sa prime.

Le témoin a déclaré qu'à la suite des études qu'il a effectuées, il avait conclu que le taux convenable et raisonnable du coût pour le capital-actions ordinaire de la Compagnie Bell serait de 7 p. 100. Le principal facteur qui l'avait incité à porter ce jugement était le taux de capitalisation auquel les investisseurs avaient consenti à mettre les capitaux à la disposition de cette entreprise contre des actions ordinaires de Bell.

Au cours des douze années allant de 1953 à 1964, les achats d'actions de la Compagnie Bell sur le marché libre s'effectuaient à des prix qui, lorsqu'on les compare aux plus récents bénéfices par action, démontraient que la capitalisation des investisseurs atteignait le taux moyen de 5,3 p. 100. Au cours des dix dernières années, les prix courants des actions de la Compagnie Bell avaient, en moyenne, dépassé la valeur aux livres d'environ 35 p. 100, et le rapport entre les

bénéfices par action et les prix d'émission pour les sept émissions de la Compagnie Bell aurait été en moyenne de 6.7 p. 100. Étant donné que cette moyenne ne tenait pas compte du coût des émissions ni de la pression boursière, le témoin a déclaré qu'il accorderait une allocation de 0.26 p. 100 pour le coût des émissions, mais aucune allocation pour la pression boursière. L'addition de 0.26 p. 100 au rapport moyen entre les bénéfices par action et les prix d'émission de 6.7 p. 100 donnerait un coût du capital-actions, fondé sur les offres de droits, de 6.96 p. 100.

Le témoin a fait remarquer que, en 1958, la valeur au livre moyenne des actions ordinaires de Bell était de \$34.65 par action. Si le niveau autorisé de bénéfices de \$2.43 par action était rapproché de cette valeur comptable, le taux de rendement calculé serait de 7.01 p. 100. Ce taux de rendement, appliqué à la capitalisation moyenne pour 1964, correspondait à des bénéfices de \$2.59 par action.

M. Van Scoyoc a déclaré qu'il n'avait découvert aucune preuve d'augmentation importante du coût du capital-actions de Bell depuis la décision prise par la Commission en 1958. Le taux raisonnable qu'il a proposé pour le coût du capital-actions de 7 p. 100 de la Compagnie Bell a donc présupposé le maintien des offres de droits pour obtenir la majeure partie du capital-actions de la Compagnie Bell à l'avenir; de plus, cela est conforme à la structure actuelle du capital, environ 40 p. 100 en obligations et 60 p. 100 en actions.

Si cependant, la Commission devait adopter en principe la proposition de la Compagnie Bell d'établir un taux de rendement autorisé de 7 p. 100 sur la capitalisation totale moyenne, M. Van Scoyoc a prétendu que la formule suggérée par Bell devrait être modifiée. Il a exprimé l'avis que, étant donné que Bell s'occupe d'exploitation et d'entreprises autres que des services de téléphone et de communication, il y avait lieu de songer à l'opportunité de se fonder sur la capitalisation totale pour déterminer les bénéfices et les tarifs téléphoniques.

Le 31 décembre 1963, Bell avait des placements dans *Northern Electric Company Limited*, ainsi que dans d'autres entreprises, pour une valeur atteignant \$64,757,282, soit environ 3.83 p. 100 de la capitalisation totale de Bell pour 1963. A la fin de 1964, ces placements avaient atteint \$77,240,000, soit 4.21 p. 100 de la capitalisation totale. En 1963, les dividendes provenant de ces placements avaient donné un rendement global de 9.49 p. 100, soit un rendement de 15.28 p. 100 pour les placements dans *Northern* et de 2.90 p. 100 pour les autres placements.

Le témoin a prétendu que, suivant la proposition de la Compagnie, les abonnés paieraient à Bell la différence entre 2.90 p. 100 et le taux de rendement réclamé de 7 p. 100, pour ce qui était des compagnies autres que *Northern*. En même temps, les abonnés recevraient les bénéfices provenant de la différence entre 7 p. 100 et le rendement de 15.28 p. 100 sur les placements de Bell dans *Northern*. Bien que, à tout prendre, il en résulterait apparemment un

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profit net pour les abonnés, le témoin a observé que le rapport de fournisseur de *Northern* à l'égard de Bell le plaçait dans une catégorie particulière, parce que les marges de bénéfices de *Northern* sur l'équipement et les fournitures soumises à Bell étaient capitalisés dans les comptes d'installation de Bell. Ainsi, les tarifs payés par les abonnés seraient en fait déterminés d'après l'allocation d'un taux de rendement sur de telles marges de profits. D'autre part, une partie de ces marges de profit se reflétait également dans les paiements de dividendes de *Northern* à Bell et était comprise dans le revenu de Bell; on a donc proposé de tenir compte de ce fait en déterminant le niveau autorisé de bénéfices de Bell.

M. Van Scoyoc a fait remarquer que le taux de rendement sur le capital total moyen de *Northern*, et sur le capital-actions moyen plus l'excédent, au cours des années allant de 1958 à 1964, a semblé considérablement supérieur à ceux obtenus de l'exploitation de services téléphoniques par la Compagnie Bell. Il a donc suggéré que la Commission adopte la méthode exposée dans son annexe n° 21 comme méthode à suivre pour déterminer le capital total moyen de Bell, le capital-actions moyen, ainsi que le montant du revenu qui s'y apparente. Suivant cette méthode, la capitalisation moyenne et le revenu connexe tant en ce qui a trait à Bell qu'à ses filiales seraient ajustés de façon à créditer aux abonnés de la Compagnie Bell la proportion de bénéfices de *Northern* attribuables à ses ventes à Bell, et de créditer aux actionnaires de Bell et de *Northern* le reste des bénéfices de *Northern* provenant des transactions faites par cette compagnie avec des clients autres que la Compagnie Bell, l'hypothèse voulant que la marge de bénéfices de *Northern* était la même pour les deux types de vente.

Les régularisations proposées par M. Van Scoyoc ont été apportées à la capitalisation de Bell, ainsi qu'à celle de *Northern*, pour une période de deux ans, le 31 décembre 1963 et le 31 décembre 1964, et se lisaient ainsi: de la capitalisation totale de Bell, il a déduit les placements effectués par Bell dans des compagnies autres que *Northern Electric* et cette proportion des placements de Bell dans *Northern* concernant les ventes à des clients autres que Bell, cette proportion étant calculée suivant la même proportion des ventes faites à d'autres compagnies qu'à Bell par rapport aux ventes totales. La capitalisation régularisée qui en résultait était allouée au capital-actions et à la dette à long terme dans la même proportion que la capitalisation totale de Bell et ces régularisations et allocations ont été ramenées à une moyenne. Le revenu total de Bell avant déduction des intérêts pour l'année 1964 était alors régularisé de la façon suivante: le revenu de Bell provenant des placements, ainsi que les autres intérêts payables par Bell, était déduit du revenu total avant déduction des intérêts et la proportion du revenu net de *Northern* pour 1964 qui représentait la proportion des ventes à Bell s'ajoutait aux chiffres obtenus. En établissant un rapport entre ce revenu régularisé et la capitalisation totale régularisée de

Bell, M. Van Scoyoc a calculé un taux de rendement global de 6.49 p. 100. Le revenu régularisé disponible pour les actions ordinaires était obtenu en déduisant les intérêts et l'amortissement du revenu total régularisé et, de cette façon, M. Van Scoyoc obtenait un taux de rendement de 7.61 p. 100 sur la moyenne des actions ordinaires.

Au cours du contre-interrogatoire, M. Van Scoyoc a admis que lorsque les actions d'une compagnie étaient vendues en bourse à des prix supérieurs à la valeur aux livres, le rapport bénéfices-prix serait inférieur au rapport entre les bénéfices par action et la valeur aux livres par action. L'avocat de la Compagnie Bell a signalé que, depuis l'année 1960, le rapport bénéfices-prix des actions de la Compagnie avait été considérablement inférieur au rendement moyen des obligations à long terme de Bell. M. Van Scoyoc a répliqué que le rapport bénéfices-prix établi dans son annexe n° 9 ne pouvait être accepté d'emblée comme fondement du coût du capital-actions; il fallait étudier méticuleusement de tels rapports, les éprouver et les adapter, opération qui nécessite du jugement, ou bien à une appréciation personnelle fondée sur l'expérience. L'annexe n° 9 indiquait que le rapport annuel moyen bénéfices-prix pour les douze entreprises de services publics qu'il avait choisies était de 5.3 p. 100 pour la période de douze ans allant de 1953 à 1964.

Il avait utilisé ce rapport moyen, en faisant preuve de discernement, comme base de ses calculs relativement à Bell, mais il a admis avec l'avocat de la Compagnie Bell que les bénéfices moyens pour ces 12 entreprises de services publics étaient supérieurs à 7 p. 100 au cours de la période 1959-1963.

L'avocat de Bell a parlé du rapport de la 78^e assemblée annuelle de la *National Association of Railroad and Public Utilities* et lu des extraits du rapport du comité sur les tarifs des services publics selon lequel les prix des actions sur le marché avaient peu de valeur pour déterminer les niveaux adéquats de bénéfices pour une industrie qui fait l'objet d'une réglementation. Cependant, M. Van Scoyoc a soutenu que plusieurs commissions américaines de réglementation ont négligé ce point de vue. D'autre part, il a admis avec l'avocat de la Compagnie Bell que les seuls cas en 1964 et en 1965 où des commissions américaines de réglementation avaient régularisé les prorata de la dette d'entreprises de services publics étaient des cas où de telles régularisations ne portaient pas ces prorata de la dette à un niveau supérieur à 40 p. 100. Il a déclaré de plus qu'il ne voulait pas laisser entendre que la capitalisation de Bell était de quelque façon exagérée et il a admis qu'il n'y avait pas aux États-Unis d'entreprises de service téléphonique suffisamment comparables à la Compagnie Bell pour pouvoir établir des comparaisons justes entre les taux de rendement autorisés.

En ce qui a trait à sa thèse selon laquelle la partie des bénéfices de *Northern* réalisés sur des ventes à des clients autres que Bell devrait profiter

aux actionnaires de la Compagnie Bell, l'avocat de Bell lui a demandé comment on pourrait y arriver si les abonnés recevaient couramment le bénéfice des dividendes payés par *Northern* à Bell. M. Van Scoyoc n'a pu dire comment on pourrait procéder pour arriver à un tel résultat, mais il a soutenu que les bénéfices de *Northern* s'ajoutaient à l'avoir d'un actionnaire de la Compagnie Bell dans la mesure des bénéfices réinvestis de la *Northern*. Il a concédé que certains rapports de vente utilisés dans son annexe n° 21 provenaient de renseignements erronés, mais il a déclaré que l'annexe pourrait être modifiée pour tenir compte des chiffres exacts qui, en ce qui a trait aux taux de rendement, seraient selon l'avocat de Bell de 6.46 p. 100 sur le capital total moyen et de 7.56 p. 100 sur le capital-actions moyen.

Le second témoin cité par l'avocat des municipalités était M. Georges-Émaré Courville, employé de la ville de Montréal qui avait pour fonction de s'occuper des questions relatives aux services publics. Le témoignage de M. Courville a consisté à expliquer ses quatre pièces justificatives n° CM-3-1 à CM-3-4. Deux de ces pièces démontraient ce que serait le revenu net par action de la Compagnie Bell en se basant sur des prorata de la dette de 40 p. 100, 50 p. 100 et 60 p. 100, sujet à certaines hypothèses en ce qui a trait au taux moyen d'intérêt sur les obligations. Les deux autres pièces exposaient sous formes graphiques les variations relatives du taux obtenu sur les actions ordinaires de Bell et le taux obtenu sur les valeurs industrielles, indiqué par la pièce justificative B-45 de Bell, pages 6 et 8, où l'on utilise l'année 1949 comme point de départ.

Durant le contre-interrogatoire, M. Courville n'a pas admis la thèse de l'avocat de la Compagnie Bell pour qui l'unique façon d'augmenter le prorata de la dette de Bell serait d'augmenter la capitalisation totale en contractant de nouvelles dettes à long terme. Au contraire, il a soutenu que le prorata de la dette de Bell pourrait être facilement augmenté en réduisant le montant du capital-actions. Cependant, il a admis avec l'avocat de la Compagnie Bell que les pièces justificatives touchant le prorata de la dette ne constituaient que des hypothèses.

Quant à ses deux pièces-graphiques, l'avocat de la Compagnie Bell a demandé que M. Courville prépare deux pièces similaires pour la Commission, dont une prendrait pour base la moyenne des trois années 1951, 1952 et 1953, les trois années complètes qui ont suivi l'augmentation des tarifs de 1950, et l'autre prendrait pour base l'année 1951.

Durant la discussion, l'avocat des municipalités a réaffirmé la déclaration qu'il avait faite au début de l'audience, que ses clients étaient disposés à concéder à la Compagnie Bell des bénéfices de \$2.59 par action ou bien de 7 p. 100 sur le capital-actions, ou de 6.1 p. 100 sur le capital total. Il a aussi déposé, au cours de l'audience, les pièces justificatives CM 1-1 à CM 1-7 exposant certaines données financières, statistiques et autres se rapportant à la Compagnie Bell ainsi qu'à l'indice des prix de gros et à celui des prix à la consommation.

3. RÉSUMÉ DU PLAIDOYER PRONONCÉ À L'AUDIENCE

Le plaidoyer de l'avocat est pour une bonne part, un résumé des principaux témoignages produits au cours d'une audience. Un tel résumé ne sera pas retranscrit ici, ayant été déjà reproduit assez longuement dans la section 2 ci-dessus, sauf si l'avocat en a besoin pour des questions qui n'auraient pas été entièrement explicitées ou résolues au cours du témoignage oral, ou pour préciser des points soulevés par l'avocat lui-même. Ce résumé de plaidoyer portera surtout sur les principes de réglementation préconisés par l'avocat, en particulier ceux qui se rapportent au niveau autorisé de bénéfices et sa base d'évaluation, et sur la jurisprudence qu'ils invoquent. L'absence de certains arguments dans ce résumé ne signifie pas que la Commission n'en a pas tenu compte dans sa décision. La Commission a attentivement examiné et révisé tous les arguments qui lui avaient été soumis et qui sont compris dans les 6 volumes de la *transcription de témoignages*, environ 760 pages.

a) Au nom de la Compagnie:

(1) Cause et but de l'enquête.

À l'ouverture de l'audience, M. J.L. O'Brien, c.r., avocat de la Compagnie déclara que la correspondance avec certains défendeurs et les déclarations publiées dans les journaux ou ailleurs, indiquaient l'existence de quelques malentendus au sujet de la cause et du but de l'enquête menée par la Commission dans les affaires de la Compagnie. Il était tout à fait inexact de donner à entendre, comme on l'avait fait, que c'est la Compagnie qui avait incité la tenue des délibérations actuelles. L'avis de la Commission relativement à son intention de faire une enquête surprit la Compagnie, mais la Commission considérait qu'une révision de sa situation financière était nécessaire, puisque la dernière datait déjà de cinq ans.

En ce qui concerne l'objet de l'enquête, l'avis de la Commission en date du 22 septembre 1964 indiquait clairement ce qui était à inclure et ce qui était à exclure de l'audience, et plus précisément, les exigences de la Commission relatives à l'exposé de la Compagnie. Selon l'avocat, la Commission désirait nettement une enquête pour aider à déterminer ce qui pourrait être un niveau juste et raisonnable de bénéfices, et la base d'un tel niveau autorisé de bénéfices. De plus, la marche à suivre serait indépendante de toute considération au sujet d'un niveau général de taux. Malgré cette déclaration non équivoque de la Commission, il y eut des rapports périodiques sous-entendant que, si la Commission établissait un niveau de bénéfices que la Compagnie pourrait atteindre dans un laps de temps raisonnable, une demande pour augmenter le niveau général des taux ne tarderait pas à suivre. Mais au dire de l'avocat, la Compagnie n'envisageait rien de semblable.

Avant même que l'avis de la Commission ne soit publié, la Compagnie avait en vue certains objectifs d'ensemble concernant le niveau autorisé de bénéfices,

qui, à son avis, s'imposerait dans l'intérêt général de ses abonnés, de ses actionnaires et du pays. La réalisation de ces objectifs cependant, n'avait pas trait, et n'a toujours pas trait, à une augmentation possible du niveau général des taux de la Compagnie; un tel niveau n'avait pas davantage été défini antérieurement, avec la précision que demandait l'avis de la Commission.

L'avocat nota qu'à cet effet, il existait deux concepts, totalement opposés, sur la gestion d'une industrie: le concept "régie intéressée" et celui d'un "encouragement aux bénéfices". Le premier concept supposant que la réglementation limite les bénéfices et que toute augmentation de bénéfices admissibles ne peut provenir que d'une augmentation de taux. Le second concept, contrairement au premier, établissant que la perspective de bénéfices constitue un encouragement primordial pour une gestion efficace, gestion qui, sans dépasser la limite des prix, incite l'augmentation des bénéfices grâce à une amélioration des services et un contrôle vigilant des dépenses. La Compagnie envisageait ce deuxième concept.

Bien que la Compagnie n'ait pas fait de prévisions détaillées et à long-terme, certains critères reconnus permettaient de fixer les objectifs généraux et de déterminer les chances de les réaliser. De grands économistes avaient prédit une augmentation annuelle d'environ 5 p. 100 pour le volume du produit national brut, mais de seulement 2 p. 100 par an pour les prix. Se fiant à ces hypothèses et à l'idée qu'un stimulant fournirait les revenus nécessaires tout en contrôlant strictement les dépenses, la Compagnie a soutenu avoir confiance d'atteindre ses objectifs, sans augmenter le niveau général des taux. L'avocat ajouta cependant, qu'il serait hypocrite de laisser entendre que certains événements, aujourd'hui imprévisibles, ne pourraient pas se produire à un moment ou l'autre, nécessitant alors une révision du niveau général des taux de la Compagnie; mais il insista sur le fait que la Compagnie n'avait pas envisagé et n'envisageait pas davantage actuellement une telle révision de la part de la Commission.

(2) Révision des opérations, des revenus et des dépenses.

La révision des six dernières années révèle un progrès général du service téléphonique et de la qualité du service offert aux abonnés de la Compagnie. Les abonnés ont profité de ces avantages aux mêmes tarifs pour les appels locaux que ceux qu'ils payaient à la fin de 1958, et à des tarifs inférieurs pour certaines catégories d'appels interurbains. Pendant cette période de stabilité des tarifs téléphoniques, l'Indice des prix à la consommation passa de 127 à 137, les taxes de vente municipales et provinciales et les taxes sur le service téléphonique augmentèrent de 145 p. 100, tandis que les revenus personnels en Ontario et au Québec ont augmenté de plus de 20 p. 100. Ainsi, pour les abonnés cette stabilité des tarifs représentait une véritable diminution du coût relatif du

service téléphonique. A cet effet, le document B-17 montre que les prix demandés par la Compagnie aux abonnés, pour le service téléphonique, était le troisième plus bas au monde.

Pendant cette période, la qualité et la sûreté de fonctionnement du service s'améliorèrent sensiblement. De nouveaux services furent créés et la Compagnie procura à ses abonnés un service d'installation tout aussi efficace. Malgré une tendance à vouloir automatiser le service téléphonique, on s'attarda spécialement à donner aux abonnés un bon service personnel, là où il était demandé. En fait, le nombre de services mis à la disposition des abonnés augmenta. Encouragée, la Compagnie, au dire de l'avocat, fit de grands progrès, contribua à la stabilisation des prix et à un standard de vie plus élevé pour ses abonnés.

Pendant cette période, la Compagnie poursuivit son objectif tendant à augmenter au maximum ses revenus, dans les limites de la structure tarifaire en cours. La hausse des revenus d'exploitation pendant ce temps révéla un changement dans le volume plus que dans les prix; mais étant donné l'usage courant du téléphone, l'augmentation des appels interurbains et la diversification des services, une importante partie des revenus se trouvait à venir des services facultatifs. Ainsi le risque concernant les revenus de la Compagnie grandissait, parce que les abonnés pouvaient se passer de certains services, ou du moins y recourir dans une plus faible mesure, en temps économiques difficiles. L'instabilité croissante des revenus, venant d'un usage courant du téléphone, d'une proportion plus grande de revenus fournis par les appels interurbains et d'une plus grande variété de services, risquait de diminuer les revenus, plus que par le passé.

Les dépenses d'exploitation, au cours de ces six années, ont été caractérisées par un contrôle accru de la part de la direction et par une rigidité accrue. Tandis que les revenus annuels d'exploitation augmentèrent d'environ 7.6 p. 100, les dépenses annuelles d'exploitation n'indiquèrent qu'une hausse de 6.0 p. 100. La réglementation des dépenses se manifesta par un déclin de 68 à 63 du coefficient d'exploitation, et par un déclin de \$180 à \$154 par \$1,000 d'installations.

Le nombre d'employés passa de 39,000 à 36,000 et les montants versés aux employés par \$1,000 d'installations tombèrent de \$92 à \$71. En termes absolus, les montants versés aux employés augmentèrent de \$26,000,000, soit de \$131,000,000 à \$157,000,000; \$20,500,000 de cette augmentation résultant de hausses de salaires après négociations et du redressement des salaires et \$5,500,000 venant de changements de la structure du personnel et de l'amélioration des avantages sociaux. Depuis 20 ans, la Compagnie fait des études sur les salaires qui lui permettent de comparer ces salaires aux salaires accordés par les autres industries, en fonction d'un même travail, et de vérifier les changements apportés aux niveaux des salaires des localités où elle exploite ses

services. A l'aide de ces études, la Compagnie veut fixer des salaires comparables à ceux accordés par les autres industries, en fonction de la compétence au travail et du genre de localité; ce faisant, elle espère attirer et garder des employés compétents et qualifiés.

C'est à ce sujet que l'avocat de la Fédération canadienne des maires et des municipalités, M.L.C. Carroll, c.r., a déposé la pièce justificative C.M.-1-7, relative au dédommagement des employés; il voulait montrer que l'indemnité moyenne accordée par la Compagnie à ses employés était supérieure à celle des employés des services publics. L'avocat de la Compagnie, après avoir examiné le rapport du Bureau fédéral de la statistique de décembre 1964 sur l'emploi et les listes de paye, dit que les services publics cités dans ce document comprenaient ceux de l'électricité, de la fabrication et de la distribution du gaz, d'aqueduc et égouts sanitaires, etc..., mais que les services téléphoniques n'y étaient pas. Il apparaissait alors qu'on ne pouvait pas faire de comparaisons valables entre les salaires moyens des services publics cités dans le document et l'indemnité payée par la Compagnie, parce qu'il ne semblait même pas y avoir possibilité de comparer ces services avec la Compagnie. Bien que le document montrât que l'augmentation du taux de l'indemnité moyenne payée aux employés de la Compagnie, pendant la période considérée dans le document, avait été supérieure à l'augmentation de l'indemnité payée par les services publics, il montrait aussi que l'indemnité moyenne des employés de ces services était de beaucoup plus importante que celle payée par la Compagnie. Mais à part cela, le document avait peu d'intérêt; l'avocat admit que la pièce justificative B-82 prouvait que la Compagnie payait le même salaire pour un même travail. Ainsi, les salaires de la Compagnie étaient-ils justes et raisonnables.

L'avocat constata que d'énormes progrès avaient été faits dans le domaine de la réglementation des montants versés aux employés, progrès marqués en substituant plus sensiblement que dans le passé la main-d'œuvre par du capital. La valeur de l'équipement téléphonique par employé passa de \$41,500 à la fin de 1959 à \$65,000 à la fin de 1964. Tandis que les frais fixes à ce niveau élevé de placement contrebalançaient en partie des montants versés aux employés relativement bas, la rigidité croissante des montants versés aux employés était la conséquence la plus frappante. Tout changement dans la structure du personnel répondrait désormais moins facilement aux différentes conditions économiques.

Étant donné les progrès technologiques, la désuétude prédomina ces dernières années et entraîna des dépenses d'amortissement plus élevées. Celles-ci figurent au second rang dans le classement des postes de dépenses d'exploitation, soit 31 p. 100 du total de ces mêmes dépenses. Bien qu'il fût possible de contrôler les dépenses d'amortissement en employant à bon escient le capital et en utilisant le plus longtemps possible l'équipement existant, elles étaient rigides dans ce sens qu'elles n'étaient pas susceptibles d'être contrôlées ou réduites immédiatement, si les revenus diminuaient. Les dépenses d'exploitation deve-

naient donc rigides avec l'augmentation de cette composante des dépenses et des risques courus par l'entreprise.

Les autres dépenses s'accrurent: de \$60 millions en 1959 à \$80 millions en 1964, représentant entre 23.3 p. 100 et 23.9 p. 100 des dépenses totales. Cette augmentation est normale, étant donné surtout le rythme de croissance de la Compagnie.

Pour ce qui est de l'emploi des ordinateurs, l'avocat déclara que la Compagnie s'est appuyée sur les progrès technologiques pour contrôler les dépenses et améliorer le service aux abonnés.

Pendant le contre-interrogatoire, M. Carroll, avocat des municipalités, a interrogé le témoin sur les services fondamentaux et secondaires, qu'il nomme développements horizontaux et verticaux; mais la Compagnie n'a pas admis les distinctions ainsi établies. Les revenus des services autres que proprement téléphoniques ont augmenté davantage au cours de cette période que les revenus des seuls services téléphoniques, et l'on pouvait s'attendre à avoir plus de demandes de services complexes que de demandes de services purement téléphoniques, à cause de la hausse du niveau de vie et de la complexité croissante de la société. Avec le temps, ces nouveaux services deviendraient nécessaires, au même titre que l'avaient été autrefois les téléphones noirs à ligne commune. Toute proposition contre la création de nouveaux services signifie que la Compagnie doit s'arrêter, ignorer les progrès technologiques et retarder le progrès de ceux qui s'en serviraient au profit de communications meilleures et plus efficaces. Mais ceci est absurde; il vaut mieux que la Compagnie poursuive sa présente ligne de conduite, grâce à laquelle un grand nombre de services de communication fonctionne vite et bien.

(3) Dépenses de construction.

Ce qu'il y a de plus remarquable dans le programme de construction de la Compagnie, pour la période d'après-guerre, c'est qu'il n'a jamais été interrompu. La courbe des dépenses, à part quelques variations, fut ascendante. Immédiatement après la guerre, on s'applique à satisfaire la demande de service et à l'améliorer. Et ce fait de satisfaire la demande n'a nullement arrêté les travaux de construction. Le développement du Canada, relié à l'explosion technologique, ne permettait pas d'envisager, dans un avenir proche, une réduction des dépenses de construction.

Pour rendre compte des dépenses de construction, il n'était pas suffisant de prévoir un rendement raisonnable des dépenses envisagées. Il fallait surtout considérer le rendement actuel et futur des placements en cours, pour attirer des capitaux et faire de bons placements. M. Lester proposa qu'en cas de grave régression, on pourrait réduire les dépenses d'environ 15 p. 100, sans que cela nuise au programme à longue portée de la Compagnie. Tout ralentissement temporaire dans la marche du programme devra être compensé par une accélération

correspondante dans une période ultérieure; ainsi, les besoins de capitaux de la Compagnie et l'équilibre financier requis resteraient les mêmes, que le recul soit assumé ou pas.

La Compagnie a clairement montré son besoin d'un programme de construction de grande envergure, aussi bien du point de vue économique que du point de vue technique. Si le programme devait être appliqué, il faudrait maintenir le système de crédit et la stabilité financière de la Compagnie au meilleur niveau possible. Un équilibre financier est un facteur essentiel pour, les abonnés et aussi pour la prospérité de l'économie canadienne dans son ensemble.

(4) Contrat de service avec le A.T.&T.

L'avocat déclara que les frais réels demandés à l'abonné pour le service téléphonique étaient déterminés par la compétence de la direction, fait établi d'ailleurs par le témoignage produit. L'efficacité et la compétence se trouvaient réunies, non seulement au niveau de la direction, mais aussi dans le fait que les directeurs avaient trois facteurs importants à leur disposition, dont: a) possibilités de recherche, en quantité et en qualité, qu'aucune autre organisation canadienne semblable n'a à sa disposition; b) possibilités de renseignements directoriaux remarquables et d'expérience administrative dans le domaine téléphonique et autre; c) habileté de la direction à concrétiser les recherches techniques dans un matériel et un équipement nécessaire pour satisfaire les besoins de communication, sans que les abonnés payent plus cher.

En ce qui concerne le premier facteur, la Compagnie a satisfait ses besoins de recherche de deux façons: par l'établissement à Ottawa du Centre de recherches et de perfectionnement de la Compagnie *Northern Electric*, et par son contrat de service avec le A.T.&T. Le coût annuel des recherches faites par la Compagnie est d'environ 7 millions de dollars, mais ce centre ne pouvait faire des recherches que dans des conditions propres au Canada. L'économie canadienne ne pouvait se permettre de consacrer d'importantes sommes pour la mise au point du Centre de commutation électronique (E.S.S. #1) par exemple, ou dans une proportion suffisante pour égaliser la production des laboratoires Bell aux États-Unis. Ainsi, la Compagnie a fait appel au second moyen de recherche, le contrat de service.

L'avocat a passé en revue le contrat de service avec le A.T.&T., et cité le témoignage, lors de l'audience sur la hausse des prix en 1950, de M. Macaulay, vice-président exécutif de la Compagnie, qui a signé ce contrat le 1er juillet 1949. Le contrat de service a son origine dans les accords avec l'A.T.&T., provenant de l'achat, en 1880, des droits attachés au brevet de la Compagnie Bell. La Compagnie se rendit vite compte qu'elle devait se développer davantage et qu'elle avait besoin de l'aide technique de l'A.T.&T. Dans les années 1920,

la Compagnie réclamant plus de services complets qu'on ne lui en offrait, le premier contrat de service fut établi, en 1923, selon lequel la rémunération à l'A.T.&T. représentait 1½ p. 100 des revenus des centraux et du service interurbain. En 1929, la rémunération tomba à 1 p. 100, mais pouvait revenir 1½ p. 100 sur préavis de six mois. Dès 1949, l'intérêt financier de l'A.T.&T. dans la Compagnie avait diminué à 12 p. 100 (il est aujourd'hui à 2.6 p. 100), ce qui ne permettait pas de contrôler ou de contraindre la Compagnie d'aucune façon. Ainsi le contrat de 1949 fut-il conclu avec réserve, chaque point du contrat ayant été sujet à des discussions, des débats, des conflits d'opinion et des compromis.

En 1950, M. Macaulay déclara dans son témoignage que, lors des négociations avec l'A.T.&T. il avait essayé huit différentes possibilités de remboursement, et que la théorie des revenus donnait les montants les plus faibles. L'A.T.&T. avait des accords semblables avec 21 compagnies d'exploitation américaines associées, accords basés sur un pourcentage des revenus, mais refusait de conclure tout accord avec une compagnie étrangère sans les mêmes bases d'entente. Un contrat basé sur les revenus, c'était simple et pratique; et c'était aussi la meilleure façon de surveiller les services mentionnés dans le contrat.

Selon le contrat de service, l'A.T.&T. devait sans cesse faire des recherches, des enquêtes et des expériences téléphoniques, donner à la Compagnie des renseignements concernant la direction, la conseiller et l'aider dans les domaines de la technique, de l'équipement et du trafic. Il accordait aussi à la Compagnie des licences non-exclusives, en vertu des nombreux brevets de l'A.T.&T.; et enfin, l'A.T.&T. devait se charger de tout ce qui a trait aux propriétés industrielles canadiennes, d'après les brevets qu'il avait achetés. A cet effet, un témoin de la Compagnie dit que le libre emploi de ces licences brevetées rapportait à la Compagnie environ \$1.5 millions par an.

Parmi les techniques et les systèmes mis au point par les laboratoires de la Compagnie Bell, on compte le transistor en 1948, la batterie solaire en 1954, de meilleures antennes, le principe négatif de la rétroaction et la commutation électronique. La recherche pour cette dernière mise au point entraîna une dépense d'environ \$100 millions. La direction de la Compagnie approuva l'idée, car une commutation électronique permettrait l'agrandissement du réseau tout en conservant les immeubles existants, étant donné que ces appareils n'occuperaient qu'un tiers de l'espace occupé par le matériel existant.

L'avocat révisa le témoignage du témoin de la Compagnie quant à l'épargne possible, si la Compagnie adoptait les perfectionnements des laboratoires de la Compagnie Bell, et selon l'opinion de la Compagnie au sujet des difficultés qui surgiraient si elle était incapable de défrayer la somme nécessaire aux

programmes de recherches et de perfectionnement. De tout ceci, souligna-t-il, dépendait la facilité avec laquelle la Compagnie arriverait à satisfaire complètement la demande croissante de services de communication. L'avocat dit que les renseignements et informations fournis dans le cadre du contrat relativement aux différents niveaux de la direction étaient aussi importants que la recherche elle-même.

L'avocat conclut en disant que l'A.T.&T. avait dépensé environ \$5.1 millions en 1964 en services pour la Compagnie, et que celle-ci avait déboursé \$4.7 millions. La Compagnie, au dire de l'avocat, prépara la pièce justificative B-86 pour répondre à la demande de l'avocat des municipalités; ce document montrait ce qui arriverait en appliquant aux répartitions de frais de l'A.T.&T., indiquées, dans le document B-9, les décisions de la Commission des services publics de Californie (53 P.U.R., 3e., p. 513). Ces décisions appliquées, la rémunération de l'A.T.&T. aurait été d'environ \$70,000 en plus sur leurs dépenses. Finalement, l'avocat remarqua que selon le contrat de service la Compagnie avait le privilège d'étendre ses bénéfices, autres que ceux venant du libre emploi des permis brevetés, aux autres compagnies canadiennes de téléphone, ce qui lui avait rapporté une rémunération d'environ \$838,000 en 1964.

Selon l'avocat, la Compagnie devait profiter des recherches de la Compagnie *Northern*, des laboratoires de la Compagnie Bell, du département général de l'A.T.&T., des instruments de travail et des renseignements administratifs nécessaires pour mettre le réseau sur pied et voir à ce qu'il soit efficace et satisfaisant.

(5) *Le régime de pension de la Compagnie.*

L'avocat dit que le régime de pension de la Compagnie a été discuté lors de l'audience de 1949-1950 sur les tarifs, et que les différents points du régime furent résumés avec précision dans la décision de la Commission. En remplaçant les chiffres inexacts, les mots employés par la Commission peuvent servir encore, compte tenu des changements dans les avantages sociaux que le témoin de la Compagnie a décrits dans le compte rendu. L'avocat a cité le passage suivant, tiré de la décision de la Commission lors de la cause de 1949-1950, 67 C.R.T.C. I, page 33,:

"On peut dire que les défendeurs n'ont pas soumis d'autres projets de régime de pension qui pût être comparé ou considéré par la Compagnie, mais ont basé leurs allégations sur les arguments et le contre-interrogatoire des témoins de la Compagnie. En autant que le projet puisse être déraisonnablement libéral, à l'exception des comparaisons faites avec les autres projets soumis par la Compagnie, la Commission ne peut pas faire de comparaisons. En ce qui concerne les autres projets, une révision du témoignage et du document à l'appui 77 mentionné ci-dessus semble indiquer que le projet final de la Compagnie

n'est pas trop libéral ou anormal. Au contraire, d'après ce que nous en jugeons, on peut dire que c'est un projet satisfaisant l'employé et tous ceux qu'il concerne. La seule preuve fournie semble montrer que, bien que ce soit un régime sans versement de la part des bénéficiaires, il sera éventuellement plus avantageux qu'un régime avec versements de la part des bénéficiaires. La consolidation sur une base annuelle actuarielle est nécessaire si l'on veut que le projet ait une base solide et actuarielle, et je pense que toute critique dirigée envers ceux qui ont la responsabilité d'administrer la caisse des retraites au nom des employés serait justifiée si ces personnes négligeaient leurs devoirs. Je considérerais ainsi le projet comme étant une imputation, en plus des impôts accumulés chaque année, sur les dépenses. A mon avis, il n'y a rien dans ce régime ou dans les méthodes et supputations de financement de ce régime qui puisse mécontenter les abonnés".

L'avocat affirma également que cette question du régime de pension fut revue lors de l'audience sur les tarifs et traitée dans les "Décisions du Conseil" du 10 janvier 1958, (76 C.R.T.C. 267, page 296), comme suit:

"Les défenseurs pensent qu'on pourrait épargner en adoptant un régime de pension avec versements de la part des bénéficiaires au lieu du régime de pension actuel qui est entièrement aux frais de la Compagnie. La Commission, cependant, ne juge pas nécessaire de modifier ses conclusions antérieures, à savoir que les dépenses que la Compagnie assume pour son régime de pension sont raisonnables, et qu'on ne ferait pas obligatoirement des économies en adoptant un régime de pension avec versements de la part des bénéficiaires."

L'avocat conclut en disant qu'il n'y avait rien de déraisonnable dans les conditions qui régissent le régime de pension des employés de la Compagnie, et que le Conseil n'avait pas changé d'avis depuis les décisions prises en 1950 et 1958. Le régime de pension avantage la Compagnie, ses employés et même ses abonnés.

Il serait intéressant de voir si l'on peut financer le régime de pension de la Compagnie autrement que sur une base de consolidation complète étant donné que la loi en vigueur en Ontario et la loi proposée par le bill 52 devant la Législature québécoise exigent toutes deux des régimes de pension entièrement consolidés.

(6) *Amortissement*

L'avocat souligna qu'on avait examiné attentivement l'amortissement lors des audiences de 1950, 1952, 1957 et 1958. Il déclara qu'en 1959, l'amortissement moyen du matériel s'élevait à \$1.4 milliard. Elle était de \$2.2 milliards en 1964, soit une augmentation d'environ \$800 millions. La moins-value sur les impôts accumulés passa de \$68 millions en 1959 à \$110 millions en 1964, soit une augmentation d'environ \$42 millions. Sur ce montant, \$35.6 millions furent

utilisés pour l'achat de nouvel équipement, et \$6.4 millions résultent de changements dans les taux d'amortissement. L'ensemble de cette augmentation de \$6.4 millions découlait pratiquement de changements apportés à trois comptes: changements de taux en ce qui concerne l'outillage des stations, les communications entre stations et les transmissions par antennes. Le taux d'amortissement composé qui était de 4.83 p. 100 en 1959 augmenta à 4.99 p. 100 en 1964.

Le taux d'amortissement pour l'outillage des stations, durant les six années considérées, augmenta de 5.9 p. 100 à 7.2 p. 100, à cause de la brièveté de l'installation de l'outillage que causent les mouvements accrus de la population. Le taux d'amortissement pour les raccordements des stations augmenta de 12 p. 100 à 13 p. 100, à cause de l'expansion des téléphones vers l'extérieur. Le taux d'amortissement pour les centraux (fils aériens) augmenta de 8.2 p. 100 en 1959 à 13.6 p. 100 en 1964, à cause du remplacement des lignes aériennes par des câbles, et diverses autres raisons mentionnées par le témoin.

L'avocat déclara que le témoin de la Compagnie avait examiné les notions fondamentales de l'amortissement et les avait résumées, à savoir que les dépenses occasionnées par les biens étaient payées à l'avance et qu'il faudrait les considérer dépréciables sur les factures comme faisant partie des dépenses d'exploitation. Le témoin avait aussi expliqué la façon de fixer les taux d'amortissement et déclaré que la Compagnie conservait son système d'organisation et de comptabilité, mis à jour régulièrement, et poursuivait des études détaillées sur l'organisation afin d'établir des taux raisonnables d'amortissement.

Pour étudier ces taux d'amortissement, la Compagnie eut recours à la méthode de l'amortissement constant (par groupe). La Compagnie emploie cette méthode depuis que les dépenses d'amortissement relèvent de la comptabilité. La Commission l'avait révisée en 1927, 1950, 1952, 1957 et 1958; et lors de ces audiences, les défendeurs ne l'ont jamais mise en question. Bien que M. Benson, porte-parole des défendeurs lors de l'audition en 1950, ait critiqué la façon dont la Compagnie se servait de ses méthodes d'étude, il n'avait pas d'objection à l'amortissement constant (par groupe) en tant que tel. C'était cette méthode que les compagnies de téléphone de l'Amérique du Nord employaient, et celle que la Federal Communications Commission des États-Unis avait approuvée. L'avocat des municipalités, M. Carroll, a interrogé le témoin sur la méthode d'amortissement constant en fonction de la durée utile et sur la méthode de l'amortissement dégressif à taux constant, mais ne les a ni expliquées ni considérées comme étant supérieures ou plus appropriées que la méthode de l'amortissement constant (par groupe). Toutefois, le témoin de la Compagnie a ajouté que cette dernière méthode était meilleure que les deux autres pour établir les taux d'amortissement concernant le matériel de la Compagnie.

L'avocat fit enfin mention des pièces justificatives B-83 et B-84. Le document B-83 établit les taux d'amortissement des compagnies canadiennes de téléphone pour l'année 1964, et le document B-84 fait l'inventaire des taux d'amortissement de la Compagnie et des filiales de l'A.T.&T. L'avocat affirma qu'on ne pouvait pas faire une comparaison juste et valable entre les taux d'amortissement d'une compagnie et ceux d'une autre compagnie, même si les deux compagnies ont un système identique de comptabilité et emploient les mêmes méthodes pour établir leurs taux, parce que le taux d'amortissement propre à chaque compte peut être altéré par les facteurs suivants:

- a) les investissements dans chaque catégorie;
- b) les pratiques de retrait de l'équipement de la Compagnie;
- c) les modes d'exploitation de la Compagnie;
- d) les demandes faites dans le territoire desservi par la Compagnie;
- e) le programme de construction de la Compagnie;
- f) l'agrandissement du territoire desservi par la Compagnie;
- g) les constructions gouvernementales dans ce territoire.

Cependant, si l'on regarde les taux mentionnés dans le document B-83, on observe que certaines compagnies ont amorti les raccordements de postes contrairement à d'autres compagnies. L'avocat cita alors les comparaisons suivantes, tirées du document B-83:

TAUX D'AMORTISSEMENT COMPOSÉ – 1964				
	<u>Bell</u>	<u>B.C. Tel.</u>	<u>Maritime Tel. & Tel.</u>	<u>Alberta Govt. Tel.</u>
Raccordements de postes inclus	4.99%	5.22%	4.73%	—
Raccordements de postes exclus	4.42%	—	—	4.26%
	<u>Manitoba Telephone</u>	<u>New Brunswick Telephone Co.</u>	<u>Saskatchewan Govt. Tel.</u>	
Raccordements de postes inclus	—	—	—	
Raccordements de postes exclus	4.20%	4.72%	4.94%	

En ce qui concerne le document B-84 qui montre les taux d'amortissement des huit mémoires de la Compagnie et des filiales de l'A.T.&T. pour l'année

1964, l'avocat remarqua que les taux de certaines filiales étaient supérieurs, ou inférieurs, à ceux de la Compagnie.

(7) *Les relations entre la Compagnie Bell et la Northern Electric Company Limited:*

L'avocat fit allusion à ses présentations antérieures en ce qui concerne le contrat de service avec l'A.T.&T., dans lequel il était dit qu'une direction efficace sous-entendait des possibilités de recherche, des possibilités de renseignements directoriaux ainsi que l'habileté à transformer la recherche opérationnelle en un matériel utile. La Compagnie fut en mesure de répondre à ce dernier facteur grâce à ses relations avec la Compagnie *Northern Electric*.

L'avocat jugea pertinent de rendre compte de ces relations en faisant l'historique de la Compagnie. Dans les premiers temps, semble-t-il, la Compagnie avait trouvé difficile de se procurer un bon appareillage, des fils et des câbles au Canada; la Compagnie put alors soit importer à grands frais l'équipement nécessaire, soit se contenter d'un service médiocre, soit courir le risque de fabriquer au Canada le matériel requis. La Compagnie adopta cette dernière solution et équipa les compagnies qui précédèrent la Compagnie *Northern Electric*; elle y acquit des actions. Dès le début cependant, la filiale manufacturière fut soumise à la fluctuation des demandes de la Compagnie Bell. Les rumeurs qui voulaient que la Compagnie Bell fasse l'acquisition d'un volume constant de la production n'étaient pas fondées. En 1891, il y avait eu une demande de 2,874 téléphones, mais ce nombre était tombé à 975, ce qui était une chute très brusque. La Compagnie absorbait 30 p. 100 de la production avant la Première Guerre mondiale, 20 p. 100 pendant la guerre et 58 p. 100 dans les années 1920. Au moment de la Dépression, la Compagnie vit ses demandes diminuer de deux tiers, mais heureusement, les ventes générales de la Compagnie *Northern* n'enregistrèrent pas de baisse aussi importante. Lors de la Seconde Guerre mondiale, les ventes de la Compagnie *Northern* à la Compagnie Bell ne représentèrent que 15 p. 100 des ventes totales.

Le témoin de la Compagnie, au dire de l'avocat, avait déclaré que, grâce à la *Northern*, sa filiale manufacturière, la Compagnie avait pu transformer la recherche opérationnelle en un matériel efficace après les guerres et la Dépression, et avait pu satisfaire les demandes d'après-guerre. De son côté, la Compagnie *Northern* avait continué à produire les techniques, les ouvriers et les installations pour assurer l'équipement nécessaire.

Dans les années 1950, les achats de la Compagnie Bell à la Compagnie *Northern* représentèrent environ 50 p. 100, mais selon les chiffres, on peut constater de sensibles fluctuations dans le volume des achats, même après 1958. L'avocat dit qu'il s'était permis de faire cet historique parce qu'au moins deux témoins des défenseurs avaient parlé de la Compagnie *Northern* comme

étant une entreprise sans aucun aléa et jouissant d'une demande relativement stable de ses produits. On avait même été jusqu'à dire que la Compagnie *Northern* avait un genre de marché fermé et ne connaissait pas les problèmes d'une compagnie industrielle ordinaire. Cependant, la pièce justificative B-56 semble montrer que les fluctuations des ventes de la Compagnie *Northern* sont comparables aux fluctuations des ventes des industries d'appareils électriques et d'approvisionnement, et sont même supérieures à celles des industries de fabrication. Le document B-89, établi par la Compagnie à la demande de l'avocat des municipalités, fournit les mêmes renseignements que le document B-56 et indique aussi les ventes de la Compagnie *Northern* à la Compagnie Bell. Ce document montre, au moyen de statistiques, l'avantage que la Compagnie *Northern* retire de ses ventes à la Compagnie Bell et au public en général, la fluctuation de ses ventes à la Compagnie Bell étant plus grande que celle de ses autres ventes. Ainsi, la Compagnie *Northern* avait pu répartir les hauts et les bas de son chiffre d'affaires grâce aux compagnies autres que la Compagnie Bell; et si la Compagnie *Northern* devait dépendre uniquement des achats de la Compagnie Bell, l'entreprise courrait aujourd'hui des risques plus grands que les risques courus par les industries d'appareils électriques et les industries de fabrication. En fait, conclut l'avocat, la théorie du "client unique" augmente les risques au lieu de les diminuer.

Le témoin de la Compagnie a fait une longue étude pour savoir s'il fallait donner le travail de fabrication à *Northern* plutôt que de le présenter sous forme de soumissions et de contrats à un ou plusieurs fournisseurs. Mais la Compagnie n'avait pas tellement le choix, une fois ce fait reconnu que chaque article fourni doit être compatible avec le réseau complexe de l'organisation de la Compagnie. Les moyens de recherche de la Compagnie perdraient toute signification si le fabricant n'en était pas averti et s'il ne les approuvait pas. L'équipement ancien tomberait prématurément en désuétude à moins de le conserver au moyen de pièces de rechange. Certains articles ménagers, par exemple, n'eurent plus leur raison d'être parce que le fabricant produisait de nouveaux modèles et qu'il n'était plus économique de garder ou de vendre les vieilles pièces, auparavant indispensables à l'entretien de ces articles. Si l'on doit faire affaire avec un nouveau fabricant, celui-ci devrait récupérer, dès ses premiers modèles, les dépenses initiales par une hausse de prix; ces dépenses lui seraient remboursées par l'acheteur, même si, éventuellement, un autre fabricant fournissait l'article. Toutefois, grâce à ses relations avec la Compagnie *Northern*, la Compagnie Bell récupéra ses frais de perfectionnement par ses prix; un autre avantage de cette relation réside dans le fait que la Compagnie Bell peut compter sur la Compagnie *Northern* pour parer à des éventualités comme les dommages causés par une tempête ou un orage.

Le témoin de la Compagnie a également fait part d'une étude sur les méthodes employées dans différents pays, du Japon à la Suède, prouvant que ces pays n'ont pas obtenu de meilleurs résultats. Au contraire, leurs résultats furent inférieurs et les obligèrent à établir des vérifications et contrepois à l'égard des fournisseurs. L'avocat déclara que tous les facteurs considérés recommandaient de maintenir les relations actuelles entre les compagnies Bell et *Northern*. Sans actionnaires étrangers, la Compagnie *Northern* retire tout avantage de ces relations et est libre d'élargir sa base de ventes, afin de diminuer les fluctuations dans la demande et d'avoir les périodes de production les plus longues et les moins dispendieuses possibles.

L'avocat s'est référé à la pièce justificative n° B-57 soumise par la Compagnie, indiquant une comparaison entre le rendement du capital total et de l'avoir des actionnaires de *Northern* et le rendement moyen des profits de 65 valeurs industrielles de la bourse de Montréal pour la période allant de 1949 à 1963. Il a signalé que le rendement moyen du capital total de *Northern* pour les années 1949-1963 avait été de 10.25 p. 100 et que depuis 1957 le rendement du capital global de *Northern* avait varié d'un minimum de 5.98 p. 100 en 1961 à un maximum de 9.94 p. 100 en 1959. Selon l'avis de l'avocat, le rendement de *Northern* était très raisonnable pour une entreprise manufacturière de ce genre. Le rendement moyen du capital total des 65 valeurs industrielles durant la période commençant en 1957 avait varié de 7.67 p. 100 à 9.16 p. 100; ces recettes étaient généralement comparables à celles de *Northern* bien que les profits de cette dernière entreprise ont été légèrement inférieurs durant cette période. *Northern* avait eu l'avantage d'effectuer des ventes sur le marché domestique ainsi que sur le marché étranger à des prix supérieurs à ceux qu'elle consentait à Bell et son rendement du capital était modeste et raisonnable. Puisque *Northern* pouvait maintenir la concurrence à des prix supérieurs à ceux qu'elle exigeait de Bell et que ses bénéfices étaient raisonnables, cela démontre que les prix de *Northern* pour Bell étaient raisonnables.

Parlant de la preuve relative aux prix consentis par *Northern* à Bell, l'avocat a souligné que Bell n'était pas tenu d'acheter quoi que ce soit de *Northern* mais qu'en fait Bell a effectué la majeure partie de ses achats auprès de *Northern* dans tous les cas où *Northern* pouvait lui vendre des produits. L'exigence exacte au sujet des prix consentis par *Northern* à Bell était énoncée à l'article II d'un contrat d'approvisionnement (Pièce justificative n° B-50) qui se lit comme suit:

“La Compagnie de téléphone payera les prix de la compagnie fabriquant des appareils électriques pour les matériaux de cette dernière ainsi que pour les spécifications d'outillage et l'installation. Ces prix devront être déterminés de temps en temps par la compagnie fabriquant des appareils électriques et devront être aussi bas que ceux consentis à ses clients

privilégiés pour des matériaux et des services semblables dans des conditions comparables...”

Pour s'assurer que cette obligation de la part de *Northern* est bien remplie, la Compagnie Bell procède à des vérifications au moyen d'échantillons pris au hasard représentant environ 8 p. 100 des ventes forfaitaires (représentant 5 p. 100 du nombre des contrats passés durant l'année) et en analysant les ventes effectuées un jour par mois, pour les ventes effectuées autrement qu'en vertu d'un contrat (représentant environ 5 p. 100 de ces ventes). L'avocat a prétendu que cela constituait un échantillonnage très considérable comportant de nombreux détails. La vérification échantillonnée des ventes forfaitaires comprenait de l'équipement crossbar, pas à pas, manuel et porteur en usage dans les centraux et la vérification ne se limitait pas à un examen de l'équipement qui servait à déterminer les exigences relatives aux plans; les frais de conception, d'installation et de transport étaient également étudiés et comparés aux frais correspondants des contrats passés avec d'autres clients que Bell. Considérant la profondeur et l'ampleur de cet échantillonnage, a dit l'avocat, la conclusion du rapport de vérification était claire et sans équivoque: "Nous déclarons que pour ce qui est de tous les articles examinés par nous à l'exception de quelques minimes erreurs d'écriture, les prix de vente exigés des clients ordinaires étaient supérieurs à l'équivalent des prix consentis à La Compagnie de Téléphone Bell du Canada." (Pièce n° B-52).

Le rapport de vérification effectuée par les comptables agréés *Touche, Ross Bailey & Smart* (Pièce n° B-52), a déclaré l'avocat, a été critiqué par M. Simonton, témoin cité par *Industrial Wire and Cable Company Limited*, dans les termes suivants:

"Au sujet du rapport *Touche Ross* comme tel, il faudrait signaler que la comparaison des prix avait trait à des catégories de ventes de *Northern* ne constituant qu'environ un tiers des ventes effectuées par *Northern* à des clients ordinaires. Pour certaines catégories de ventes, le rapport mentionne qu'elles ont été exclues des analyses parce que Bell n'achète ordinairement pas ces produits en quantités appréciables. Pour ce qui est d'autres catégories exclues, cependant, on ne donne aucune explication pour leur exclusion, par exemple les ventes de produits exportés ainsi que les ventes de produits non fabriqués par *Northern*. Les ventes de produits non fabriqués par *Northern* sont importantes s'élevant à \$84,700,000 en 1963 et ces produits sont vendus en quantité appréciable à Bell ainsi qu'aux clients ordinaires." L'avocat a souligné que la pièce justificative n° B-88 soumise par la Compagnie démontrait que les ventes effectuées par *Northern* à des clients autres que Bell en 1963 s'élevaient à environ \$130 millions. La répartition de ces ventes effectuées à des clients autre que Bell s'établissait comme suit: Exportations — \$7 millions; Produits non fabriqués par *Northern* — \$61 millions; catégories mentionnées dans la vérification *Touche*

Ross — \$40 millions; et les catégories de produits non vendus à Bell et les autres produits exportés — \$22 millions. Si, l'avocat a-t-il dit, la Régie estimait convenable d'examiner le détail des ventes pour 1963, elle constaterait que la vérification échantillonnée couvrirait réellement toutes les catégories (sauf les exportations) desquelles Bell achetait une certaine quantité de matériel.

Les pages 1 et 2 du rapport de vérification Touche Ross énumèrent les catégories de produits qui n'ont pas fait l'objet de l'analyse et l'avocat a déclaré qu'il traiterait chacune de ces catégories en particulier. Ces catégories étaient:

- A. Ventes de produits exportés.
- B. Ventes de la division de l'équipement de communications, ... Belleville.
- C. Contrats de nature particulière et sous-contrats en rapport avec le programme gouvernemental de défense.
- D. Ventes de marchandises non fabriquées par *Northern* et constituées de produits de genre non manufacturé par la Compagnie.
- E. Ventes de bobines et de lattis bien que facturés aux clients, ces produits sont sujets au crédit sur le profit.
- F. Ventes de types particuliers de fil et câbles que Bell n'achète ordinairement pas en quantité importante.

L'avocat a souligné que la catégorie A, ventes de produits exportés, avait fait l'objet d'une vérification complètement distincte, qu'un témoin de la compagnie avait comparu et déposé au sujet de cette vérification particulière et que la pièce justificative n° B-76 fondée sur cette vérification démontrait que *Northern* avait pu vendre aux États-Unis à des prix de 22 à 24 p. 100 supérieurs à ceux consentis à Bell. En 1964, le volume des ventes de ces produits exportés aux États-Unis avait atteint la valeur de quelque \$11.5 millions. D'autre part, la vérification Touche Ross démontre que *Northern* avait vendu environ pour \$40 millions d'articles sur le marché domestique par comparaison à ceux vendus à Bell et ces articles étaient vendus à des prix supérieurs à ceux consentis à Bell. Au sujet de la catégorie B qui comprend des avertisseurs d'incendie, des appareils de signalisation pour la police, ainsi que l'équipement servant à diriger la circulation, des articles qui ne pouvaient servir à établir des comparaisons parce que Bell n'achetait pas de ces articles ou en achetait moins de 1 p. 100. La catégorie C comprenant les contrats en vertu du programme gouvernemental de défense se composait d'articles qui ne pouvaient être comparés à ceux achetés par Bell, étant donné que les exigences du gouvernement étaient complètement différentes de celles de Bell. La catégorie D n'a fait l'objet d'aucune vérification parce qu'elle se composait d'articles pour lesquels *Northern* agit comme agent acheteur pour le compte de Bell conformément aux dispositions

de l'article II, alinéa 2 du contrat d'approvisionnement. En vertu de ces dispositions, Bell remboursait à *Northern* le prix des factures ainsi que les taxes, le transport et les frais de manutention; mais les articles qui font l'objet de ces dispositions n'étaient pas vendus à Bell par *Northern* même dans le sens le plus large qu'on pourrait prêter à une vente. La catégorie E se composait de bobines et de lattis pour lesquels des dépôts remboursables étaient payés. La catégorie F comprenait des ventes de types de fil et de câbles que Bell n'achetait pas ordinairement en quantité importante; les achats de ces produits, effectués par Bell, constituaient moins de 1 p. 100.

M. Simonton avait terminé ses critiques du rapport Touche Ross en disant que ces derniers auraient apportés beaucoup plus de renseignements utiles, si l'on avait indiqué pour chaque catégorie incluse, de même que pour chaque catégorie exclue, la valeur des ventes effectuées à Bell et la valeur des ventes effectuées aux clients ordinaires. L'avocat a déclaré que lorsqu'on se souvient de l'objet de la vérification Touche Ross, qui avait pour but de vérifier si l'article 2 du contrat de fourniture avait été observé, M. Simonton ne pouvait parler d'autres renseignements qui permettraient à la Compagnie Bell d'accomplir quelque chose ou permettraient à la Commission de s'acquitter de sa tâche; il ne pouvait que regretter l'absence d'autres renseignements qui pourraient être utiles pour *Industrial Wire and Cable Company* ou pour d'autres gens qui ont les mêmes intérêts. Mais la valeur de ces renseignements, même pour *Industrial Wire & Cable*, devait être placée dans une perspective convenable; les ventes effectuées par *Northern* dans le domaine où elle faisait concurrence à *Industrial Wire* n'avait qu'une valeur d'environ \$13 millions, environ 4 p. 100 de ses ventes seulement et environ 13 p. 100 du marché canadien pour ces articles.

Dans le mémoire de l'avocat, les seules conclusions qu'il était possible de tirer de la vérification étaient que *Northern* avait réussi à consentir à Bell des prix plus bas tout en obtenant une bonne part du marché domestique et étranger et que la proportion de ses profits dans le contexte de la pièce n° B-57 était raisonnable et comparable à celle d'autres entreprises du même genre.

Au cours du témoignage, a déclaré l'avocat, on avait porté une certaine attention aux dispositions du contrat d'approvisionnement relatif aux achats effectués par *Northern* chez *Western Electric*, achat de pièces destinées à être incorporées dans des appareils fournis à Bell. Cependant, la valeur de ces pièces ne constituait qu'environ 1.3 p. 100 de tous les achats de cette nature effectués par *Northern* pour servir à la fabrication d'appareils vendus à Bell, et, pour les achats de ce genre, *Northern* n'agissait pas comme agent acheteur pour le compte de Bell.

En ce qui a trait au rôle d'agent acheteur, rempli par *Northern* pour le compte de Bell, la preuve a démontré que Bell faisait affaires avec *Northern* parce qu'elle estimait que *Northern* pouvait lui rendre ce service de façon plus satisfaisante ou au moins tout aussi bien et plus économiquement que Bell même ne pouvait le faire. *Northern* avait ses propres services d'inspection, d'achat et d'entreposage, et Bell évitait ainsi d'avoir à établir et entretenir un service identique puisque *Northern* faisait cela pour elle. La rémunération des services rendus par *Northern* en qualité d'agent acheteur était déterminée d'après des études des dépenses de *Northern*, effectuées et revisées régulièrement par un comité constitué de représentants du Bell et de *Northern*, un rajustement étant effectué à la fin de chaque année, si le montant payé d'après les taux établis annuellement ne correspondaient pas aux dépenses réelles encourues par *Northern*.

M. Lionel W. Thatcher, témoin appelé par *Industrial Wire and Cable Company* avait fait grand état du fait que pour des articles fabriqués par *Northern*, *Northern* n'avait pas révélé ses dépenses ou son allocation du coût et que la Commission n'avait pas non plus requis de la faire. De l'avis de l'avocat un examen du témoignage de M. Thatcher a révélé qu'il avait allégué trois raisons à l'appui de ses vues: a) qu'environ 46 états américains exercent une juridiction ou un contrôle sur les transactions conclues avec une filiale; b) que NARUC, (*the National Association of Railroad and Utilities Commissioners*), avait demandé l'allocation du coût; et c) que la méthode uniforme de comptabilité prescrite par le FCC (*Federal Communications Commission*), pour les compagnies de téléphone de la catégorie A et B comprenait dans l'article 3.01-2 une déclaration exigeant l'isolement des frais qui n'étaient ni justes ni raisonnables.

L'avocat s'est dit d'avis que l'ensemble du témoignage de M. Thatcher devait être étudié compte tenu du fait qu'il était très près de l'industrie américaine du téléphone. On pouvait se faire une idée très nette, a déclaré l'avocat, de la mesure dans laquelle cette influence le marquait par l'usage fréquent qu'il faisait de l'expression "*affiliated company*". Bien que cette phrase ait un sens précis aux États-Unis il n'était pas réaliste de l'appliquer au contexte canadien et l'avocat a prétendu que les principes énoncés par les commissions américaines de réglementation et par NARUC ne valait pas pour le cas de l'affinité entre Bell et *Northern*. Le contexte "*affiliation*" auquel recourait régulièrement M. Thatcher avait trait à la situation qui prévalait aux États-Unis où une partie très considérable des valeurs des compagnies exploitantes de l'A.T.&T. appartenait à A.T.&T., et où l'A.T.&T. possédait à son tour 98 ou 99 p. 100 des actions de *Western Electric*. Sous le couvert de cette affiliation, a déclaré l'avocat, il était évident que tout profit réalisé par *Western* sur des ventes faites à des compagnies exploitantes revenait à A.T.&T. et non au compte des compagnies exploitantes. Une situation semblable existait aux États-Unis dans les régions

desservies par *General Telephone*. Dans un tel contexte, "les transactions entre les filiales" auraient beaucoup de sens et c'était dans ce contexte que M. Thatcher avait déclaré que les prix consentis au client le plus favorisé ne pouvaient être comparés. Au sujet de cette dernière affirmation, a déclaré l'avocat, il fallait ajouter le fait relevé à la page 7 des données de NARUC produites au nom de *Industrial Wire* selon lesquelles les ventes de *Western* autres que celles aux compagnies exploitantes *A.T.&T.* et au Gouvernement n'étaient que de 0.75 p. 100 de ses ventes totales de deux milliards 783 millions de dollars en 1963. Ainsi, on pouvait tirer peu ou pas de conclusion d'une comparaison des prix de *Western* aux compagnies affiliées et à celles qui ne le sont pas.

Par contraste, *Northern* constituait une filiale de Bell en propriété exclusive et tous ses revenus tant des ventes effectuées à Bell que celles effectuées à d'autres clients revenaient au crédit de La Compagnie de Téléphone Bell, compagnie réglementée, qui était l'unique actionnaire. En même temps quelque \$40 millions des ventes effectuées par *Northern* à des clients autres que Bell se composaient d'articles comparables à ceux vendus à Bell.

A propos du troisième point soulevé par M. Thatcher au sujet de la Classification uniforme des comptes de la FCC l'avocat a prétendu que cela ne résisterait pas à une analyse méticuleuse. Dans l'affaire exposée par M. Thatcher, *A.T.&T. v. FCC*, rapports de la Cour suprême des États-Unis (299), à la page 232, le juge Cardozo avait signalé à la page 246 que les règlements mentionnés par M. Thatcher étaient tout simplement les principes généraux de comptabilité dont devrait s'inspirer tout comptable pour une compagnie soumise ou non à une réglementation, qu'elle relève de la juridiction fédérale ou d'une autre juridiction. Ce principe général de comptabilité consistait à ce qu'aucun comptable ne permette une imputation aux dépenses connue comme étant déraisonnable ou injuste, et la déclaration à l'article 31-01-2, alinéa C du procédé uniforme de comptabilité de la FCC pour les entreprises des services téléphoniques des catégories A et B était tout simplement un énoncé de ce principe fondamental de comptabilité. A ce sujet, l'avocat a cité le cas de *Re Amendment of Part 31 of FCC Rules and Regulations*, (1956) 13 *Public Utilities Reports*, 3e série, à la page 163, déclarant qu'on constaterait que l'objectif réel de l'article traitant de la comptabilité était de séparer en l'occurrence certains articles de sorte que l'autorité régulatrice puisse les étudier méticuleusement et déterminer si oui ou non ils étaient convenablement compris dans les comptes de dépenses afin d'établir les tarifs ou s'ils devraient plutôt être imputés au revenu de la compagnie de téléphone. Tout le principe de cet article traitant de la comptabilité était qu'il y aurait deux catégories de revenus et de dépenses pour une compagnie exploitant un service téléphonique: la catégorie des revenus et des dépenses qui est étudiée par l'organisme de réglementation pour déterminer les tarifs convenables et d'autre catégorie de revenus et de dépenses, dont la

différence s'applique directement aux actionnaires et dont l'organisme de réglementation ne tient pas compte.

L'avocat a allégué que le témoignage rendu par M. Thatcher devrait être négligé dans l'ensemble non seulement parce que son expérience et son opinion étaient complètement étrangères à la situation canadienne mais aussi parce que, selon l'avis de l'avocat, il avait apparemment formé son opinion en fonction des circonstances dans lesquelles il se trouvait. Dans son texte original (présenté comme pièce justificative IW&C N° 1) M. Thatcher avait dit qu'il n'y avait aucune raison pour que tout bénéfice réalisé par *Northern* sur les ventes à des clients autres que Bell devrait être appliqué de façon à diminuer la rémunération requise sur les opérations de Bell ou que toute perte subie dans des transactions auxquelles la Compagnie Bell n'avait rien à faire devrait servir à augmenter la rémunération requise sur les opérations de la Compagnie Bell. Ce texte original, a déclaré l'avocat, était conforme à la pratique américaine suivant laquelle les compagnies excluent de leur revenu afin d'établir les tarifs, un revenu qui peut être considéré comme provenant d'opérations non soumises à une réglementation. M. Thatcher, a dit l'avocat, a semblé avoir compris que, compte tenu du but en fonction duquel il témoignait, ce texte original pourrait ne pas être très fascinant; c'est pourquoi il avait dit que la réponse la plus satisfaisante à la question des frais justes et raisonnables de *Northern* devrait provenir d'une analyse de ses frais et de ses bénéfices, répartis entre les transactions avec Bell et celles avec des clients autres que Bell, et classés en catégories principales de produits. Mais, l'avocat a-t-il affirmé, on ne peut que conclure que les réponses données par M. Thatcher au cours de son contre-interrogatoire étaient désespérément contradictoires. Lorsqu'on lui a demandé s'il voulait dire que le revenu de *Northern* devrait être scindé afin d'imiter la pratique américaine d'isoler les revenus non contrôlés; il avait répondu qu'il faudrait seulement examiner la répartition des dépenses de *Northern* dans les catégories de produits vendus à Bell, mais cela ne signifiait pas qu'il faudrait répartir les revenus de *Northern* en deux catégories.

M. W.A. Simonton, le comptable appelé comme témoin par *Industrial Wire and Cable* avait dit que sans un examen des dépenses et des prix de revient de *Northern* il était impossible de déterminer si les prix consentis à Bell par *Northern* étaient raisonnables. Il avait alors décrit un prix raisonnable comme un prix qui permettrait à *Northern* de réaliser un bénéfice raisonnable et non simplement des prix inférieurs à ceux exigés des autres clients. M. Simonton avait indiqué bien clairement qu'il n'avait aucune notion sur l'industrie réglementée et aucune information préalable sur les déclarations faites, sauf qu'il avait lu le compte rendu de deux causes — un jugement d'un tribunal de Californie et un autre, rendu par un tribunal du Wisconsin. Voilà, a dit l'avocat, sur quoi se fondaient toutes ses connaissances, à l'exception de sa compétence

comme comptable. Il avait lu le compte rendu de deux jugements rendus aux États-Unis au sujet du principe d'une société de portefeuille et d'un manufacturier n'ayant aucune transaction avec l'extérieur avec laquelle une comparaison pourrait être établie.

Au sujet d'un bénéfice raisonnable pour *Northern*, M. Simonton avait dit que les prix payés par Bell à *Northern* devraient rapporter à *Northern* la même proportion de bénéfice sur le capital utilisé pour la fabrication et la vente de produits à Bell, dans la mesure permise comme niveau autorisé de rendement sur le capital employé par Bell. L'avocat a dit qu'il avait demandé à M. Simonton lors du contre-interrogatoire comment il pouvait arriver à la conclusion qu'un bénéfice raisonnable constituait une question de fait et non une question d'opinion et il s'était appuyé sur deux principes: les deux décisions américaines qu'il avait citées et son avis selon lequel les risques d'une entreprise de service téléphonique et les risques d'une entreprise manufacturière étaient les mêmes.

Selon l'avis de l'avocat, cependant, il était très évident d'après les témoignages apportés que les risques de toute entreprise manufacturière différaient passablement des risques de La Compagnie de Téléphone Bell du Canada.

Le texte original de M. Thatcher (Pièce justificative IW&C N° 1) indiquait, relativement au taux de rendement de *Northern*, que les prix consentis à Bell devraient comprendre un bénéfice raisonnable qui devrait ordinairement être à un niveau comparable à celui obtenu des autres entreprises comportant des risques comparables, mais au banc des témoins M. Thatcher avait ajouté que les opérations de *Northern* étaient telles que cette entreprise devrait avoir la même marge de bénéfices que Bell, ce qui l'amenait à être du même avis que M. Simonton. Mais, selon l'exposé de l'avocat, si les déclarations faites par M. Thatcher et M. Simonton étaient étudiées à la lumière de la preuve que *Northern* constituait une entreprise manufacturière, rien dans ce cas n'étayait l'idée selon laquelle on pourrait tirer de nulle part un taux de rendement tout en disant qu'il devrait être le même que pour Bell.

Le principe fondamental de M. Thatcher avait consisté à diviser l'autre revenu de *Northern*. Lors de son contre-interrogatoire, M. Simonton avait semblé dire qu'il favorisait l'idée du scindement de *Northern*, permettant un taux précis de rendement sur les ventes faites à Bell et accordant aux actionnaires un revenu distinct ne faisant pas l'objet d'une réglementation pour les ventes faites par *Northern* à des clients autre que Bell, idée semblable à celle préconisée par M. Van Scoyoc, témoin cité par les municipalités. Si l'on devait créer une source de revenu pour les actionnaires de la Compagnie Bell sans en tenir compte pour fixer le taux de rendement, a dit l'avocat, on serait alors beaucoup plus justifié à recourir aux procédés américains. Mais l'avocat a allégué que le témoignage complet de M. Thatcher ainsi que celui de M. Simonton étaient tout à fait chimériques et sans fondement parce que le contexte canadien est entièrement différent du contexte américain.

L'avocat a signalé que M. Simonton avait laissé entendre à maintes reprises que *Northern* pourrait réaliser des bénéfices exorbitants dans ses ventes à Bell. En même temps, a dit l'avocat, *Industrial Wire and Cable*, avec tous les moyens dont elle disposait n'avait pu en aucun cas donner un seul exemple établissant que les prix de *Northern Electric* étaient exorbitants. M. Simonton avait aussi avancé certaines idées à propos des bénéfices et des bénéfices réinvestis de *Northern*. A ce sujet, l'avocat avait porté à l'attention de M. Simonton des chiffres qui démontreraient que la proportion de tous les gains de *Northern* versés sous forme de dividendes à Bell dépassait la proportion des transactions entre *Northern* et Bell par rapport aux transactions totales. M. Simonton avait affirmé que cela était inutile bien que M. Van Scoyoc, le témoin des municipalités, dans son annexe n° 21 eût considéré que la répartition des gains de *Northern*, compte tenu de la proportion de ses ventes à Bell et aux clients autres que Bell constituerait une façon équitable de procéder à une telle répartition. Si la méthode suggérée par M. Van Scoyoc était appliquée à l'étude effectuée par M. Simonton au sujet des bénéfices versés par *Northern* et des bénéfices réinvestis par ses soins, on constaterait que des bénéfices ont été versés à Bell sous forme de dividendes plus considérables que la proportion des gains réalisés dans les ventes faites à Bell d'après la répartition préconisée par M. Van Scoyoc.

Au sujet des prix consentis par *Northern* à Bell, le témoin de la Compagnie Bell avait expliqué que Bell procédait à des analyses échantillonnées des prix et volumes et discutait avec *Northern* la possibilité de déterminer des prix acceptables. Pour les nouveaux articles, les prix devaient être raisonnables par rapport à leur valeur pour Bell et à l'état des services et le témoin avait procédé à une revision des facteurs et des épreuves auxquels on procédait pour déterminer des prix acceptables. "Raisonnables", tel qu'employé par le témoin ne signifiait pas seulement un prix acceptable du point de vue de normes initiales mais aussi un prix que les ingénieurs de Bell, étant donné leur longue expérience dans l'élaboration des plans pour un nouvel outillage et leur connaissance de ce que peuvent offrir les autres fournisseurs étaient disposés à recommander. Selon l'avis de l'avocat, cela constituait une méthode sensée grâce à laquelle on avait déterminé des prix raisonnables. On procédait de plus à une étude constante de ces prix ainsi qu'à une révision constante de ces derniers à mesure que des changements se produisaient en fait de volumes et de conditions, ce qui donnait souvent lieu à des diminutions de prix.

En plus de la détermination des prix, il y avait la question des gains réels de *Northern* et la vérification, afin de déterminer si cette entreprise respectait bien ses contrats. Selon l'avocat, il fallait tenir compte de l'ensemble de ces trois points de vue et il a prétendu que la Commission pourrait et devrait en venir à la conclusion que les prix consentis par *Northern*, à Bell étaient raisonnables. Les pièces justificatives Nos B-53 et B-91 prouvaient toutes deux

que *Northern* était une entreprise solvable qui vendait à Bell à des prix inférieurs à ses prix normaux et maintenait sa position de concurrence à des prix supérieurs.

A ce propos, l'avocat a cité l'extrait suivant de la décision rendue par la Commission dans la cause de *Industrial Wire and Cable* (54 B.T.C. 47, à la page 56, cette décision a été rendue le 13 janvier 1964):

"En terminant, je constate que les activités de *Northern* au delà des limites des services téléphoniques, qui semblent préjudiciables au requérant, me semblent faire partie des pouvoirs conférés à la compagnie par sa charte. Affirmer, comme l'a fait le requérant, que son but consiste à faire en sorte que toutes les fonctions de *Northern* rentrent dans le cadre de la Commission pour la protection des investisseurs et des abonnés, c'est négliger le fait que la Commission a, à maintes reprises, fait enquête sur les prix des marchandises achetées par Bell à *Northern* et a été convaincue que l'entente qui lie les deux compagnies s'est révélée avantageuse pour les abonnés de Bell."

Cette décision, a signalé l'avocat, poursuit en disant que les dividendes obtenus reviennent à Bell. Il a allégué que rien n'avait transpiré des procédures actuelles qui inciterait la Commission à reconsidérer cette conclusion et que dans le cas présent, Bell avait établi une fois de plus le caractère raisonnable des prix de *Northern*.

Industrial Wire and Cable avait proposé que la Commission procède à une étude de la répartition des prix de revient de *Northern*, mais elle n'avait pas proposé que cette répartition soit déterminée de façon particulière. M. Thatcher ainsi que M. Simonton avaient parlé des données de *Western Electric* qui avaient été déposées comme pièce à conviction et ils avaient parlé de la répartition des prix de revient au sens large. Il est vrai, a admis l'avocat, qu'il est impossible de procéder à une telle répartition pour un article particulier et en examinant les données de *Western Electric* on constate que cette répartition portait sur un nombre limité de rubriques. Une telle division n'apporterait rien au principe des achats pratiqués par Bell, bien qu'elle puisse avoir une certaine valeur pour *Industrial Wire*. A ce sujet, l'avocat a fait remarquer que *Western* avait diminué ses ventes à la clientèle générale dans la proportion de 0.75 p. 100 de toutes ses ventes et qu'un témoin de la compagnie Bell avait signalé que les problèmes de *Northern* relativement à la répartition des prix de revient étaient entièrement différents de ceux de *Western*. *Western* n'avait pratiquement pas de clients à part les compagnies exploitantes de l'A.T.&T. tandis que *Northern* fournissait les mêmes articles à deux clients ou plus. Ce témoin avait pris pour exemple une emboutisseuse pour les appareils téléphoniques et s'était dit d'avis que la répartition des prix de revient dans de tels cas avec un bon nombre d'éléments variables deviendrait très factive. Donc, selon l'avocat, la

Commission n'atteindrait aucun de ses buts en donnant droit à la requête d'*Industrial Wire*; qui plus est, des révélations sur les répartitions des prix de revient pourraient nuire gravement à la situation de concurrence de Northern sur le marché général. Une mesure qui nuirait à la situation de concurrence de Northern sur le marché général, a prétendu l'avocat aurait des conséquences néfastes pour les abonnés de Bell et aurait des conséquences graves pour Northern. Ces dernières considérations ne valaient pas dans le cas de *Western Electric*.

L'avocat a déclaré que la compagnie Bell ne désirait pas priver les abonnés des bénéfices de Bell sur aucun de ses placements pas plus qu'elle ne cherchait pas d'autres moyens à faire en sorte qu'aucun revenu ne soit considéré dans la détermination des tarifs des abonnés. Le total des investissements de Bell dans les filiales s'élevait à environ \$56.5 millions dont les investissements dans Northern étaient d'environ \$34.4 millions. Ces investissements dans l'ensemble ne constituaient que 3 p. 100 de tout le capital de Bell et, pour ces investissements, Bell avait obtenu un rendement global de 12 p. 100. Les dividendes de Northern à eux seuls avaient rapporté à Bell un rendement de 16.5 p. 100 sur ses investissements. Northern n'avait donc pas constitué un fardeau pour les abonnés de Bell. Le prorata de sa dette était conforme à celui des autres entreprises industrielles et ses coefficients de bénéfices avaient été déposés comme preuve. Les dividendes payés à la Compagnie Bell par Northern étaient passés de \$3.6 millions en 1959 à \$5.7 millions en 1964 et au cours de cette période le rapport de ses bénéfices distribués avait varié de 44 à 74 p. 100 par comparaison à un éventail de 54 p. 100 à 58 p. 100 pour les 65 valeurs industrielles. A la lumière de tous ces faits, l'avocat a soutenu qu'il était évident que les rapports existant entre Bell et Northern subissaient avec succès toutes les épreuves appropriées dans les cas où Bell était le seul propriétaire de Northern, le rendement des investissements de Bell était pris en considération à l'avantage des abonnés et où Bell n'avait pas de filiales au sens américain de ce mot.

L'avocat a de plus allégué qu'il n'existait pas de preuve qui permît à ce stade-ci à la Commission de procéder à un nouvel examen du précédent qu'elle avait établi dans les termes suivants (Décision datée du 10 janvier 1958, 76 C.R.T.C. 267):

A l'audition de la preuve, la Commission estime que pour le moment les investissements de Bell dans Northern Electric ne portent pas en fait préjudice aux clients de Bell Telephone et que de plus les prix payés à Northern Electric par Bell sont aussi bas ou plus bas que les prix courants.

"Cette constatation ne doit pas être interprétée comme signifiant que la Commission estime que sa juridiction est limitée aux deux points mentionnés. Il est vrai qu'il n'entre pas directement dans la compétence de la Commission de forcer Northern Electric à faire ou à ne pas faire telle ou telle chose, par

exemple, la contraindre à verser certains dividendes. Mais la Commission estime qu'en s'acquittant de sa mission d'imposer des tarifs justes et raisonnables, elle a le droit de tenir compte de tous les facteurs impliqués. La demande présentée par le requérant pour augmenter sa proportion de bénéfices était fondée pour une bonne part sur la nécessité de nourrir la confiance des gens intéressés à placer de l'argent dans les valeurs de Bell; cette confiance doit être influencée non seulement par le crédit de l'entreprise de services téléphoniques mais aussi par tous les capitaux et les ressources financières dont Bell dispose qu'ils soient ou non utilisés ou tirés de l'exploitation du service téléphonique et en tenant compte des intérêts de Bell pour *Northern Electric*.

En terminant, l'avocat a allégué qu'en analysant tous les témoignages et toutes les conditions dans l'ensemble, la Commission n'était pas justifiée pour le moment de procéder à aucune constatation au sujet des relations existant entre Bell et *Northern* à part celle qu'elle avait mentionnée. Les abonnés de Bell tiraient des bénéfices considérables à cause de ces rapports et Bell avait prouvé que les prix de *Northern* étaient raisonnables et convenables à tous égards.

(8) *Les principes juridiques directeurs utilisés pour déterminer les niveaux de bénéfices autorisés:*

L'avocat a signalé que dans son mémoire du 28 novembre 1964, la Compagnie avait exposé que: a) ses bénéfices courants ne dépassaient pas un niveau juste et raisonnable; et b) les critères au moyen desquels le niveau juste et raisonnable des bénéfices pouvait être déterminé devraient tenir compte de tous les facteurs pertinents. Ces facteurs comprendraient: (1) l'aptitude de la Compagnie au cours d'une longue période à apporter des bénéfices comparables à ceux que retirent les actionnaires d'autres compagnies, compte tenu des risques et des impondérables; (2) la sauvegarde de la stabilité financière et du crédit de la Compagnie; et (3) la possibilité d'attirer les capitaux nécessaires pour dispenser les services requis dans l'intérêt de ses abonnés et de l'économie du pays tant actuellement que dans l'avenir.

L'avocat a affirmé qu'il croyait qu'un résumé et des analyses des autorités compétentes qui pourraient servir à l'orientation pourrait s'avérer utile. Il a fait remarquer que la Commission avait déclaré dans le passé qu'on pourrait se référer aux autorités américaines à ce sujet et il a cité une décision rendue par la Commission le 11 mars 1946 dans un différend qui opposait *the City of Ottawa v. Ottawa Electric Railway*, (59 C.R.T.C. 136, à la page 168) alors que la Commission s'était fondée sur le précédent du *Bluefield Waterworks*. Les régies provinciales avaient fait de même, par exemple, le différend opposant le *Roi à Rideout* (1949) 4 D.L.R. 612, à la page 623.

Les critères d'un taux de rendement raisonnable proposé par la Compagnie et dont on a parlé auparavant étaient: des bénéfices comparables, sauvegarde de la stabilité financière et du crédit et attraction de capitaux. Ces critères sont acceptés depuis longtemps par les tribunaux américains et canadiens.

En 1922, la Cour suprême des États-Unis dans l'affaire *Southwestern Bell Telephone Company v. Public Service Commission of Missouri*, (262 U.S. Reports, page 276 à la page 291) avait exprimé l'opinion suivante par la voie de *Brandeis et Holmes, J. J.*:

“La compensation garantie par la constitution comme étant une chance de réaliser des gains est le prix de revient raisonnable pour diriger une entreprise. Ce prix de revient ne comprend pas uniquement les frais d'exploitation mais aussi les frais d'établissement. Ces derniers englobent l'allocation en rapportant des intérêts pour l'utilisation du capital quelle que soit la nature des valeurs émises; l'allocation pour les risques courus; et une allocation suffisante pour intéresser les actionnaires.”

Durant la même année, la Cour suprême des États-Unis a appliqué plus rigoureusement ce principe dans l'affaire *Bluefield Waterworks and Improvement Company v. Public Service Commission of the State of West Virginia*, (262 U.S. Reports page 679 à la page 692) comme suit:

“Une entreprise de service public a le droit de fixer des taux susceptibles de lui permettre de réaliser un bénéfice sur la valeur de la propriété qu'elle utilise pour l'avantage du public, bénéfice égal à ceux que retirent en même temps et dans la même région du pays de façon générale d'autres entreprises exposées à des risques et impondérables comparables; mais elle n'a aucun droit, constitutionnellement, de réaliser des profits semblables à ceux que retirent ou que peuvent escompter les entreprises rémunératrices ou spéculatives. Les bénéfices doivent être raisonnablement suffisants pour garantir la confiance dans la stabilité financière de l'entreprise et doivent être suffisants, sous une direction efficace et économique, pour maintenir et soutenir son crédit et lui permettre de recueillir l'argent nécessaire pour qu'elle puisse s'acquitter de ses obligations à l'égard du public. Il se peut qu'un taux de bénéfices soit raisonnable à un moment donné et devienne trop considérable ou trop bas à cause des transformations qui influent sur les occasions d'investir, le marché de l'argent et les conditions du monde des affaires de façon générale.”

En 1943, la Cour suprême des États-Unis a rendu une décision dans l'autre cause typique du “*Federal Power Commission v. Hope Natural Gas Company* (320 U.S. Reports page 591 à la page 603), et a déclaré ce qui suit:

“La méthode suivie pour établir les taux suivant la Loi, c'est-à-dire la fixation de tarifs justes et raisonnables implique l'équilibre entre les

intérêts des actionnaires d'une part et ceux des usagers d'autre part. Conséquemment, nous avons déclaré dans le cas de la *Natural Gas Pipeline Co.* que les règlements ne garantissent pas que l'entreprise doive rapporter des bénéfices nets. Page 315 E.U. et page 590. Mais nonobstant ces considérations, les intérêts des actionnaires ont un souci légitime pour l'intégrité financière de la Compagnie dont les tarifs font l'objet d'une réglementation. Du point de vue des actionnaires ou de la Compagnie, il est important qu'il y ait suffisamment de revenus non seulement pour les dépenses d'exploitation mais aussi pour les frais d'établissement de l'entreprise. Cela comprend le service de la dette et les dividendes payés sur les actions. Cf. *Chicago & Grand Trunk Ry, Co. v. Wellman*, 143 U.S. 339, 345 à 346. Suivant ces normes, les bénéfices des détenteurs de titres devraient être comparables aux bénéfices que rapportent les investissements dans d'autres entreprises comportant des risques similaires. De plus, ces bénéfices devraient suffire à garantir la confiance dans la stabilité financière de l'entreprise afin de sauvegarder son crédit et d'intéresser les prêteurs."

La Cour suprême du Canada a appliqué ces principes au différend de *North-western Utilities v. la ville d'Edmonton* (1929 R.C.S. 186, à la page 192) dans lequel le juge Lamont a déclaré:

"La Commission avait pour mission d'établir des tarifs justes et raisonnables, des tarifs qui dans les circonstances seraient équitables pour l'utilisateur d'une part et qui, d'autre part, rapporteraient à la compagnie un bénéfice équitable compte tenu du capital investi. Par bénéfice équitable, on entend que la compagnie sera autorisée à retirer un bénéfice aussi considérable, pour les capitaux investis dans son entreprise (qui constituera un bénéfice net pour la compagnie), que celui qu'elle recevrait si elle investissait les mêmes capitaux dans d'autres valeurs présentant un intérêt, une stabilité et une sécurité comparables à celles de l'entreprise de la compagnie."

En 1960, la Cour suprême du Canada a réitéré le même principe dans l'affaire "*British Columbia Electric Railway Company Limited v. Public Utilities Commission of British Columbia*, (1960, R.C.S. page 837, à la page 853), et elle a cité, avec avis favorable sa décision antérieure relativement à *North-western Utilities*. A la page 853, l'honorable juge Martland a procédé à une analyse des quatre articles de la Loi qui ont trait à ces principes et a conclu:

"Ces quatre articles dont nous venons de parler imposent aux entreprises de service public l'obligation statutaire d'investir des capitaux pour l'expansion de leurs services. Une entreprise de service public desservant une localité qui se développe rapidement peut avoir à effectuer des dépenses considérables de cette nature pour répondre à la demande croissante. Elle doit si elle veut s'acquitter de ces obligations, être en

mesure d'obtenir les capitaux nécessaires, ce qu'elle ne peut faire que si elle obtient un taux de rémunération équitable sur sa base tarifaire."

Le juge poursuit alors en citant la cause *Northwestern Utilities*.

Les régies des services publics des provinces du Canada, a affirmé l'avocat, ont à maintes reprises accepté des critères semblables. En 1951, la *Public Utility Commission* de l'île du Prince-Édouard a déclaré au sujet de la pétition de *Island Telephone Co. Ltd.*, ce qui suit:

"..... étant la propriété de particuliers, les capitaux requis pour l'exploitation doivent provenir du public qui investit. Et aucun actionnaire ne tiendra à placer son argent dans une entreprise si elle ne lui semble pas intéressante au point de vue financier. Et, un placement ne peut être intéressant que s'il garantit la conservation du principal ainsi qu'un bénéfice satisfaisant. L'organisation chargée de la réglementation doit veiller à ce que les entreprises de service public puissent réaliser des bénéfices assez équitables pour assurer la stabilité financière du capital existant et rendre l'entreprise suffisamment attrayante pour que l'on trouve, lorsque des capitaux additionnels seront nécessaires, des actionnaires disposés à fournir de tels capitaux."

En 1954, dans l'affaire *Trade Union Dispute*, la Commission a confirmé sa déclaration antérieure et poursuivi en disant:

"Il est clairement établi par la Loi relative aux entreprises de service public que ces entreprises ont droit à des bénéfices équitables sur les investissements afin de pouvoir attirer l'attention du public qui a de l'argent à placer. Si les bénéfices sont trop peu considérables, l'entreprise de service ne pourra trouver des capitaux dont on aura constamment besoin pour l'expansion et l'amélioration des moyens servant à prodiguer les services. En fait, aux États-Unis, conformément à la Constitution, les tarifs qui ne rapportent pas des bénéfices équitables pour les placements doivent être considérés comme nuls et sans valeur. Si nous omettons d'accorder l'attention voulue à la nécessité de bénéfices équitables pour les placements, une entreprise de service ne réussira pas à intéresser ceux qui disposent de capitaux à investir et les gens de cette province sont ceux qui perdront en fin de compte quant à la qualité du service qui leur est prodigué."

La *Ontario Energy Board*, dans la question de la mise en vigueur des tarifs de *Consumers' Gas Company Rate Application*, a décidé le 15 août 1961 à la page 9:

"Selon toute évidence, la régie doit recourir à certains moyens ou à certains critères pour arriver à des décisions au sujet de ces principes. Une fois de plus, en Ontario et dans d'autres juridictions à travers le

Canada et aux États-Unis, le critère qu'on a utilisé et qu'on utilise presque sans exception est la base tarifaire — taux de la méthode de rémunération, la base tarifaire étant les capitaux employés pour l'exploitation du service comme on l'a expliqué plus haut, et le taux de la rémunération étant les bénéfices obtenus par l'entreprise sur ce montant. Les bénéfices du requérant devraient suffire à créer un revenu pour le requérant qui lui permette de couvrir ses dépenses d'exploitation tout en rapportant un bénéfice équitable aux propriétaires du service et, de plus, devraient être tels qu'ils puissent permettre au requérant d'attirer de façon raisonnable, les capitaux nécessaires à l'expansion progressive et au maintien convenable de ses services..."

A la page 21, la *Ontario Energy Board* a ajouté:

"...la régie a pour fonction d'approuver ou de fixer des tarifs justes et raisonnables et en analysant le problème, la régie doit déterminer si oui ou non le taux de rémunération de la base tarifaire, obtenu par le tarif proposé, est raisonnable. La détermination du bien-fondé du taux de rémunération dépend de plusieurs facteurs auxquels on ne peut arriver que par l'exercice d'un jugement averti au sujet de tous les faits pertinents, y compris les bénéfices d'autres entreprises dont l'exploitation est exposée à des aléas et des impondérables comparables et les bénéfices requis pour permettre à une entreprise de service d'attirer de nouveaux capitaux à un prix de revient raisonnable lorsque besoin en est."

Dans ses motifs de décision touchant l'application des tarifs de *Union Gas* en date du 27 juin 1962, la *Ontario Energy Board* a fait les constatations suivantes à la page 28:

"Les bénéfices qui constitueront une compensation équitable dépendent de plusieurs facteurs et ne peuvent être déterminés que par l'exercice d'un jugement averti. Ces facteurs comprendraient entre autres les bénéfices d'entreprises comparables; le maintien de la stabilité financière; l'attraction de capitaux à des conditions raisonnables lorsqu'ils sont nécessaires; la proportion de la dette fondée, des actions privilégiées et des actions ordinaires de la structure financière de l'entreprise de service; les dépenses effectuées par cette entreprise pour obtenir des capitaux de ce genre; l'efficacité de l'exploitation; les conditions économiques; y compris les fluctuations tant de la valeur de l'argent que de la valeur matérielle de l'entreprise; le genre d'évaluation de la base tarifaire employé par l'organisme de réglementation."

La *Alberta Board of Public Utility Commissioners*, le 26 juillet 1951 au sujet d'une demande présentée par *Northwestern Utilities Limited*, a adopté des principes semblables qui sont énoncés à partir de la page 24:

“Il sied que la régie répète ce qui a été dit dans la décision rendue récemment relativement au cas de Calgary. Le taux de rémunération constitue le pourcentage de la base tarifaire que la Compagnie a le droit de gagner pour remettre des bénéfices aux actionnaires. L'établissement de ce taux entraîne pour la régie l'obligation de protéger les intérêts des usagers tout en traitant équitablement l'entreprise de service; la régie doit se rappeler que son obligation légale consiste à établir des tarifs qui soient justes et raisonnables. Il y a quelques principes généraux à respecter, et que l'on expose dans *Edmonton v. Northwestern Utilities Limited*, 1929, R.C.S. 192.”

La régie a ensuite cité un extrait de la décision rendue dans le cas de *Northwestern* et dans le cas de *Bluefield* et elle a conclu ainsi:

“La stabilité financière et l'aptitude à intéresser les actionnaires sont fondamentales dans la détermination d'un taux de rémunération mais il faut tenir compte d'autres facteurs. Est-ce que “valeurs de nature semblable” signifie des valeurs d'une entreprise de service et est-ce que “autre entreprise commerciale” signifie entreprise de service ou bien est-ce que ces expressions désignent des valeurs d'entreprises commerciales soumises à la concurrence de façon générale? La régie adopte l'attitude selon laquelle il faut étudier ce secteur dans sa totalité. Il semblerait également que l'efficacité de l'administration, la structure financière et les conditions financières ordinaires doivent être prises en considération.”

En 1959, la Régie des services publics de la province de Québec a émis une ordonnance N° 6806 dans le cas d'une demande soumise par Québec Téléphone qui contenait la déclaration suivante:

“D'après les chiffres contenus dans le rapport certifié de l'entreprise . . . l'on obtient comme actif total une somme de \$24,147,621.00, laquelle peut être raisonnablement adoptée comme une base juste et équitable servant au calcul du rendement qui doit être accordé à la requérante pour lui permettre de payer les intérêts sur ces emprunts, verser un dividende à ses actionnaires et contribuer au fonds de surplus qu'elle doit maintenir pour assurer sa stabilité financière et son pouvoir d'emprunt sur les marchés mobiliers.”

L'avocat a déclaré pour la régie, il est impossible d'arriver à un résultat qui soit mathématiquement précis. De telles communes mesures indiqueraient une certaine marge raisonnable dans laquelle les bénéfices de la Compagnie pourraient varier sans être déraisonnables ou injustes. Au cours des délibérations, la Compagnie avait fait mention d'une marge de bénéfices raisonnable.

M. Morton avait déclaré qu'une telle mesure ne pouvait être mathématiquement précise parce que les gains de capitaux varient d'un moment à l'autre et d'une entreprise à l'autre dont le prestige augmente et diminue mais au cours d'une certaine période, une évaluation raisonnable peut être faite. M. Groleau avait la même opinion lorsqu'il avait affirmé que le niveau convenable d'un bénéfice juste et raisonnable ne peut être déterminé avec une précision mathématique, mais qu'une marge raisonnable peut être déterminée, marge dont le minimum devrait être au moins suffisant pour sauvegarder le pouvoir d'achat du capital et du revenu des actionnaires.

La *Federal Communications Commission of the United States* avait également accepté l'opinion selon laquelle il devrait y avoir une marge raisonnable, a dit l'avocat, dans son avis public 60279 du 25 novembre 1964, qui se lisait en partie comme suit:

"On a porté une attention particulière aux aspects financiers de l'exploitation de la Compagnie y compris: le niveau et la tendance des bénéfices réalisés entre les états, les normes légales qui servent à déterminer un niveau raisonnable de bénéfices, les sources de nouveaux fonds, le rapport entre la dette et le capital effectif, les besoins de revenus pour maintenir le crédit de la Compagnie, les dividendes et enfin la cote des actions de la Compagnie. La présentation de ces sujets était appuyée par des études très poussées, des pièces justificatives et d'autres données.

"Il y a eu une amélioration constante de l'économie qui, avec les progrès technologiques, et l'efficacité de l'exploitation, provoque une tendance à la hausse des bénéfices de la Compagnie. Fondée sur la considération de tous les facteurs pertinents, la Commission estime que cette amélioration des bénéfices permet à la Compagnie d'améliorer la structure de ces tarifs et de diminuer les frais qu'elle impute sur les usagers du service téléphonique. La Commission n'est pas d'avis que la crainte d'une réduction de bénéfices censée résulter de ces réductions se concrétise par un chiffre à la limite maximum de ce qui peut être permis. La Commission a confiance qu'un autre progrès de l'économie ajouté à l'efficacité de l'exploitation du service téléphonique provoquera un regain de la tendance à la hausse du niveau des bénéfices, qui permettra à la Compagnie de faire meilleure figure sur le marché des valeurs et de poursuivre son programme de construction à un rythme accéléré. Dans ces conditions, la Commission a demandé qu'on procède à une étude de l'ajustement des tarifs dont le résultat a consisté dans une réduction importante des tarifs annoncés aujourd'hui."

Ce principe d'une marge raisonnable, a poursuivi l'avocat, avait également été accepté par la Cour suprême des États-Unis dans l'affaire *Montana-Dakota Utility Company v. Northwestern Public Service Commission* (341 U.S. Reports,

page 246 à la page 251), à l'occasion de laquelle le juge Jackson a déclaré ce qui suit:

“Le caractère raisonnable légal constitue un principe abstrait représenté par une certaine marge plutôt que par un point précis. Cela comporte une élasticité considérable entre ce qui n'est pas raisonnable parce que trop inférieur et ce qui n'est pas raisonnable parce que trop élevé.”

Dans l'affaire *Denver Union Stockyard Co. v. United States*, (304, *U.S. Reports*, page 470 à la page 483) la Cour suprême des États-Unis a examiné les dispositions d'une loi relative aux emballeurs et aux cours de triage permettant au secrétaire à l'Agriculture lorsque, à sa connaissance, les tarifs des services de ces entreprises sont injustes ou déraisonnables, de prescrire des tarifs justes et raisonnables, et a déclaré ce qui suit:

“Le secrétaire n'est pas tenu d'imposer des tarifs tout justes suffisants sous prétexte d'annulation mais il est libre de fixer des tarifs plus élevés, dans des limites qui peuvent lui sembler justes et raisonnables.”

L'avocat a terminé en déclarant que la marge raisonnable établie dans les litiges antérieurs soumis à la Cour suprême des États-Unis était étudiée dans un article de 53 *Harvard Law Review* page 1103, à la page 1115, comme suit:

“La limite maximum de modération, ainsi que la limite minimum, peuvent être déterminées par des normes relatives aux prix (pour les bénéfices), ainsi que par la valeur des services, quoique en déterminant la limite maximum on puisse appliquer des normes plus généreuses pour les bénéfices nets autorisés que pour fixer la limite minimum.”

Il a allégué que les trois critères suggérés par la compagnie dans son mémoire du 28 novembre 1964 (c.-à-d. la comparaison des bénéfices, le maintien de la stabilité financière et du crédit et l'attraction des capitaux) constituaient des étalons valables qui permettraient à la Commission de fixer des niveaux de bénéfices autorisés en tenant toujours compte que de tels niveaux autorisés ne peuvent être d'une précision mathématique rigoureuse mais doivent se situer dans une marge raisonnable.

(9) *Le recours aux rapports bénéfices-prix ou dividendes-prix*

L'avocat a fait remarquer que l'avocat des municipalités, M. Carroll, avait suggéré à son témoin, M. Van Scoyoc, que les critères proposés par la Compagnie devraient être rejetés et remplacés par une formule de rapport bénéfices-prix ou bien dividendes-prix. Bien que M. Van Scoyoc ait déclaré qu'une telle formule était généralement acceptée par les organismes américains de réglementation, l'avocat a allégué qu'une analyse plus minutieuse des registres prouverait qu'il n'en est pas ainsi. Lors de son contre-interrogatoire, M. Van Scoyoc avait dû admettre que la *National Association of Railroad and Utilities Commissioners*

of the United States, communément désignée par le sigle NARUC avait condamné la formule du rapport bénéfices-prix ou dividendes-prix dans son rapport de 1964 de sa 76^e assemblée annuelle. L'avocat a tiré de ce rapport ce qui suit:

“Le tableau indique la confiance des actionnaires eu égard à l'entreprise de service et il est plutôt évident qu'on n'achète pas les actions en se fondant sur les bénéfices ordinaires étant donné que la plupart des compagnies soumises à une réglementation et dont les prix des actions ont augmenté, ont réalisé des bénéfices bien inférieurs aux taux de rémunération autorisés. Par exemple, les entreprises de transport aérien ont réalisé des bénéfices de beaucoup inférieurs à 10.25 à 11 p. 100 sur le capital total fixé par la régie de l'aviation civile et un bon nombre d'entreprises de chemins de fer ont réalisé des bénéfices à la baisse des cours. Cela confirme assurément les déclarations faites antérieurement par ce comité selon lesquelles les prix du marché des valeurs ont une valeur limitée comme indice des niveaux convenables de bénéfices pour une industrie faisant l'objet d'une réglementation. Les organismes de réglementation n'ont ordinairement pas préconisé “la réglementation en regard du marché des valeurs “lorsque le cours des actions était à la baisse et, par contre, nous croyons qu'ils ne les préconisent pas davantage lorsque le prix des actions est élevé. La tâche qui consiste à déterminer la réglementation est beaucoup trop importante pour que cette responsabilité soit abandonnée aux fluctuations de la bourse. Ce comité continue plutôt de préconiser que les décisions soient prises par une commission composée d'hommes sensés et avertis.”

Cela constitue une base solide sur laquelle on a assis le système de réglementation et nous recommandons fortement qu'il en demeure ainsi.

“A ce sujet, des rapports soumis antérieurement par ce comité ont attiré l'attention sur certains des problèmes inhérents à l'utilisation des rapports bénéfices-prix du marché dans le contexte de réglementation de la juste rémunération. Plus récemment, certains ont préconisé l'utilisation du rapport des prix du marché des actions à la valeur comptable des actions, comme indice de niveau de bénéfices suffisants. Ces deux rapports présentent les mêmes inconvénients; c'est-à-dire que tous deux dépendent des prix des actions sur le marché, ce qui, comme ce comité l'a fait remarquer dans ses rapports antérieurs, ne tient pas compte des espoirs futurs des actionnaires. Les organismes de réglementation ne sont pas légalement chargés de réglementer les prix des actions sur le marché et, comme quiconque a suivi les fluctuations du marché l'admettra, il serait plutôt futile de tenter de procéder ainsi.

“Bien qu'il y en ait toujours certains qui préconisent des efforts pour réglementer les prix des actions sur le marché, ce comité estime que la première réglementation qui s'impose consiste dans la fixation de justes proportions de

bénéfices pour les entreprises de service pour lesquelles des normes fondamentales ont été déterminée et non dans la réglementation des prix des actions sur le marché. Les critères convenables pour la fixation d'un bénéfice juste ont été édictés par la Cour suprême des États-Unis dans les affaires *Bluefield* et *Hope*. Le présent comité estime que la réglementation peut conserver sa marche progressive s'il continue à tenir compte des trois critères de justes bénéfices énoncées par la Cour, c'est-à-dire, les normes relatives à l'attraction du capital, le maintien de la stabilité des investissements et enfin les normes relatives aux bénéfices comparables."

[Note: La citation commence à la page 239 du rapport.]

L'avocat a remarqué que les trois critères mentionnés par le rapport étaient précisément les mêmes que ceux proposés par la Compagnie.

L'avocat a mentionné d'autres citations du rapport de l'assemblée annuelle de NARUC pour les années 1957, 1958, 1959, 1960 et 1962. Les passages pertinents de ces citations sont reproduits plus bas.

"Étant donné que la baisse des prix du marché a causé la hausse des rapports bénéfices-prix correspondants, certains ont établi en théorie que peut-être le coût de l'avoir propre avait augmenté de la sorte. Le comité n'est pas d'accord avec ce raisonnement..... l'achat par les actionnaires d'actions ordinaires compte tenu des possibilités futures, non pour les bénéfices courants notamment au cours de ces dernières années alors que les recettes correspondantes ont été inférieures au rendement des obligations."

.....
".....l'utilisation de ces rapports ou de toute moyenne de temps plus considérable....néglige le facteur d'accroissement qui est nécessaire pour garantir le succès des mises en vente répétées d'actions et, en l'absence duquel les actionnaires placeraient leur argent ailleurs. Les rapports ne reflètent pas, et même de loin, l'allocation juste et raisonnable pour le détenteur de capitaux et, en les utilisant, il se peut que nous omettions de mesurer les résultats par rapport au critère des bénéfices comparables établi par la cour."

[1962 74^e assemblée annuelle. Les citations de l'avocat commencent à la page 169.]

"La baisse des rapports actuels à court terme entre les bénéfices et les prix, et les dividendes et les prix, dans certains cas à des niveaux inférieurs au rendement courant des obligations démontre une fois de plus la nécessité d'une analyse méticuleuse de l'utilisation et de l'interprétation des rapports bénéfices-prix et dividendes-prix..... Il est indiscutable que l'avoir propre, qui constitue la principale partie des risques d'une entre-

prise, coûterait plus que le capital, relativement plus sûr, fourni par les obligataires.”

.....
 “.....La détermination du coût de l'avoir propre requiert une bonne mesure d'aptitudes analytiques, d'expérience et de jugement. L'utilisation aveugle, ou mieux encore, le mauvais usage, des rapports bénéfices-prix... doit être considéré avec un scepticisme de bon aloi.”

[1960 72^e assemblée annuelle. Les citations de l'avocat commencent à la page 513.]

“Les coûts de l'avoir propre sont plus difficilement déterminés. La baisse des rapports actuels entre les bénéfices et les prix et les dividendes et les prix à des niveaux inférieurs au coût de la dette et même au coût de la dette du gouvernement démontre bien plus même que les années précédentes la nécessité d'utiliser et d'interpréter les rapports avec prudence pour déterminer le coût de l'avoir propre..... Il est évident que les actionnaires n'achètent pas des valeurs pour un rendement courant mais plutôt en prévision des hausses des bénéfices, des dividendes et des prix.”

[1959 71^e assemblée annuelle. Les citations de l'avocat commencent à la page 91.]

“Cela prouve une fois de plus que l'utilisation de faibles rapports courant bénéfices-prix et dividendes-prix n'a aucun sens pour évaluer les expériences des actionnaires et, conséquemment, il ne convient pas d'y avoir recours pour évaluer le coût du capital actions.”

[1958 70^e assemblée annuelle, page 61].

“L'augmentation rapide du coût de la dette et des actions privilégiées a prouvé qu'il ne convenait pas de se fier aux rapports bénéfices-prix et dividendes-prix pour évaluer le coût du capital composé des actions ordinaires. Dans plusieurs cas, ces rapports sont inférieurs au rendement d'obligations très bien cotées; à cause de cela, il n'est certainement pas raisonnable de croire que les actions nouvelles qui assument les risques de l'entreprise constituent un capital meilleur marché que celui représenté par des obligations beaucoup plus sûres.”

[1957 69^e assemblée annuelle, page 60].

L'avocat a aussi tiré des citations de deux textes, relatifs à l'économie des entreprises de service, qui sont reproduits plus bas.

“..... il n'est pas rationnel d'appliquer..... les valeurs du marché à une base tarifaire représentant les valeurs comptables. Plus logiquement, il est rationnel de prendre une mesure fondée sur les bénéfices de l'avoir propre comptable.”

[Garfield and Lovejoy, *Public Utility Economics*, 1964 page 126].

“.....les rapports courants bénéfices-prix des actions de ce genre ne représentent pas “le coût du capital” au sens réel de cette expression.... si le taux de bénéfices permis sur de telles actions devait être limité de façon permanente.... à un taux de rémunération sur leurs valeurs comptables égale seulement à leurs rapports actuels bénéfices-prix, leur valeur négociable pourrait très bien descendre en bas de leur valeur comptable.”

[Bonbright, *Principles of Public Utility Rates*, 1961 page 253].

Parlant du témoignage de M. Van Scoyoc, un témoin ayant comparu pour le compte des municipalités, l’avocat a signalé que M. Van Scoyoc avait soutenu que le rapport bénéfices-prix constituait une méthode valable pour déterminer le taux de bénéfices autorisé pour la Compagnie. Il avait prétendu que, comme les actionnaires avaient bien voulu investir leur argent dans la Compagnie au cours des douze dernières années à des prix qui, lorsqu’on les compare aux bénéfices, avaient donné en moyenne un rendement de 5.3 p.100, de tels bénéfices devraient représenter le coût de base du capital effectif. Partant de là, il avait conclu que le coût du capital effectif de la Compagnie doit se rattacher avec ce chiffre de 5.3 p. 100, plus certaines modifications secondaires de jugement, dont il ignorait la nature parce qu’il n’y avait pas de principe qui le guidait dans l’application de ces facteurs de jugement.

A ce sujet, l’avocat a déclaré qu’une telle moyenne de 5.3%, qui avait servi de base aux redressements futurs était inférieure au rendement à longue échéance des obligations de la Compagnie. Il était universellement admis que le capital-actions à dividendes ou le capital effectif qui supportait les risques de l’entreprise devait rapporter plus que le capital constitué des dettes à longue échéance, et pourtant le rapport bénéfices-prix contredisait ce principe fondamental, comme le prouvent les données suivantes au sujet de la Compagnie:

<u>Année</u>	<u>Rendement d’une obligation à long terme</u>	<u>Rapports Bénéfices-prix</u>
1960	5.46%	5.58%
1961	5.36%	4.76%
1962	5.46%	5.07%
1963	5.38%	4.70%
1964	5.47%	4.82%

De l’avis de l’avocat, les bénéfices courants par rapport au prix courant du marché n’ont aucune importance. M. Morton, témoin de la Compagnie en ce qui concerne le juste rendement du capital global, avait décrit avec beaucoup d’à-propos l’attitude de l’actionnaire devant l’avoir propre, lorsqu’il a dit qu’il était impossible de savoir avec précision ce que l’actionnaire achetait ou croyait acheter. Il a souligné qu’on a déterminé le prix des valeurs par les espérances

de gains ou d'accroissement futurs et par beaucoup d'autres facteurs inconnus, de craintes et d'espérances tant rationnelles qu'inexplicables.

Si les prix payés pour l'avoir propre se rapportaient à l'augmentation future des bénéfices, dit l'avocat-conseil, les résultats différeraient suivant la durée de la période projetée. Ceci avait incité M. Van Scoyoc à rejeter la méthode relative au cours du "disponible" et à proposer une période de douze ans pour stabiliser les fluctuations du marché à court terme, mais dans la préparation de son annexe 11, il avait utilisé une période de quatre ans pour calculer les rapports bénéfices-prix pour la compagnie et douze autres compagnies de téléphone. Au dire de l'avocat-conseil, si M. Scoyoc avait utilisé une période de douze ans comme il l'avait proposé au début, ses résultats auraient été considérablement différents; la pièce n° B-92, déposée pendant le contre-interrogatoire de M. Van Scoyoc, montrant les rapports bénéfices-prix prévus se fondant sur les bénéfices de 1963 comme pourcentage du prix courant de 1953, a mis cet argument en relief. M. Van Scoyoc a démontré le faux raisonnement de la méthode du rapport bénéfices-prix dans le calcul d'un rendement juste et raisonnable, lorsqu'il a rapproché les rapports bénéfices-prix de la Compagnie pour les années 1958 et 1964. En 1958, le prix moyen de l'action de la Compagnie a été de \$41.50 et les bénéfices ont été fixés à \$2.43 l'action, produisant un rapport bénéfices-prix de 5.88 p. 100. Puisque le prix courant moyen durant les six derniers mois avait été d'environ \$60, la Compagnie aurait maintenant besoin de bénéfices courants de \$3.53 l'action pour maintenir le même coefficient de 5.88 p. 100.

L'avocat-conseil a comparé les annexes n° 9 et 11 de M. Van Scoyoc et a fait remarquer que la colonne 7 de l'annexe 9 montrait un rapport moyen bénéfices-prix de 5.7 p. 100 en 1960 pour douze compagnies, tandis que l'annexe 11 montrait un rapport moyen bénéfices-prix de 4.8 p. 100 pour les mêmes douze compagnies et pour la même année, une différence de 16 p. 100 entre les deux moyennes. Le coefficient de la Compagnie Bell était de 5.3 p. 100 dans l'annexe 9, mais de 5.1 p. 100 dans l'annexe 11. Si l'on devait exprimer les coûts de l'avoir propre par cette différence de moyenne de 16 p. 100 entre les deux annexes, le coût de son avoir propre grimperait de 7 à 8.12 p. 100.

Une autre déficience importante de la méthode du rapport bénéfices-prix, a dit l'avocat-conseil, était le fait qu'elle ne tenait nullement compte des bénéfices réels d'une compagnie. La comparaison de la statistique de M. Van Scoyoc et celle qu'on a déposée pendant le contre-interrogatoire, ainsi que les rapports bénéfices-prix et rendements du capital global, ont démontré que les autorités régulatrices avaient reconnu la spéciosité de l'argument et permis des bénéfices réels bien au-dessus des rapports bénéfices-prix qu'avait exposés M. Van Scoyoc. Ses douze compagnies avaient certes réalisé un bénéfice sur le capital global pendant les douze années 1959 à 1964 variant entre 7 p. 100 et 7.2 p. 100 en moyenne.

De l'avis de l'avocat-conseil, le rapport bénéfices-prix était inexécutable du point de vue réglementaire, parce qu'il conduisait à un procédé qui était lié à la bourse. En des périodes de prospérité et d'expansion, les prix courants s'élèvent généralement plus vite que les dividendes et les bénéfices, entraînant immédiatement une tendance de baisse du rapport bénéfices-prix. Si le règlement a utilisé ce rapport comme coût de l'avoir propre, on apporterait une réduction au taux de rendement admissible à cause de la réduction des rapports. Ce serait une manière tout à fait chimérique de réglementation, parce que les taux seraient réduits en période de prospérité et augmentés en période de récession.

Les points faibles de la méthode du rapport bénéfices-prix ont été résumés par l'avocat-conseil comme suit:

- a) la supposition erronée que les actionnaires ne s'intéressent qu'aux bénéfices passés ou courants;
- b) la méthode ne vaut que si la valeur comptable et le cours du marché coïncident;
- c) la méthode conduit à des taux accrus en période de récession et à des taux réduits en période d'expansion; et
- d) la méthode conduit à une fausse conclusion, parce que les bénéfices constituent le seul facteur réel et historique, l'autre facteur, le prix, étant établi par un certain nombre de considérations qui sont inconnues même de l'actionnaire.

Finalement l'avocat-conseil a dit qu'il aimerait commenter le calcul actuel, basé sur la méthode du rapport bénéfices-prix. A ce propos, il avait remarqué que M. Van Scoyoc avait préconisé trois moyens de parvenir à un niveau admissible de bénéfices de 7 p. 100 sur le capital-actions.

Voici le fonctionnement de la première méthode:

- a) le rapport moyen bénéfices-prix pour la période 1953-1964 est de 5.3 p. 100 (page 3124 de la transcription de témoignage);
- b) une rectification de 3.5 p. 100 pour la "pression boursière", (page 3128 de la transcription);
- c) une autre rectification de 5 p. 100 pour les frais de financement (page 3128 de la transcription), dont le résultat est de changer le chiffre original de 5.3 p. 100 en celui de 5.75 p. 100;
- d) une autre rectification de 0.75 p. 100 comme facteur de sécurité, (page 3129 de la transcription); et
- e) une rectification inexplicquée, ou un facteur de "jugement" de 0.50 p. 100 pour porter le chiffre final à 7 p. 100.

L'avocat a fait remarquer à propos de cette méthode que le calcul se basait sur un chiffre moyen qui devait être corrigé quatre fois pour produire un résultat convenable. Il a remarqué de plus que M. Van Scoyoc avait franchement admis, au contre-interrogatoire, que la méthode ne possédait pas de principes directeurs et que c'était une simple question d'appréciation personnelle.

La seconde méthode se basait sur les relations entre les bénéfices par action de la Compagnie et les prix d'émission de ses actions pour les sept dernières émissions (page 3125 de la transcription). Cette méthode a produit une moyenne de 6.7 p. 100, que M. Van Scoyoc a rectifiée au moyen d'un coût de financement de 0.26 p. 100 (au lieu des 5 p. 100 utilisés dans la première méthode), pour arriver à un chiffre de 6.96 p. 100. Pour des raisons qui n'étaient pas expliquées dans le registre, a dit l'avocat-conseil, M. Van Scoyoc n'a pas employé son facteur de jugement de 0.75 p. 100 ou son facteur final de 0.50 p. 100 dans cette seconde méthode.

La troisième méthode rapprochait des bénéfices de 1958 à la valeur comptable d'alors pour fournir un coefficient de 7.01 p. 100 (page 3400 de la transcription), mais la valeur de cette méthode a été détruite par l'exposé de M. Van Scoyoc (page 3401 de la transcription), disant que le rendement de la valeur comptable n'était pas une indication du taux de rendement qui inciterait l'actionnaire à effectuer un placement actuellement ou dans l'avenir.

(10) La structure financière de la Compagnie:

L'avocat-conseil a fait remarquer que plus d'un tiers du témoignage de M. Van Scoyoc critiquait le prorata de la dette de la Compagnie et laissait entendre qu'un prorata de dette de 45 à 55 p. 100 convenait mieux à la Compagnie. La raison principale à l'appui de cette suggestion, c'est que la direction de la Compagnie ne devrait pas être si prudente et qu'elle devrait s'efforcer d'augmenter les bénéfices sans dépasser les limites de la sécurité. Puisque le capital emprunté à long terme était moins dispendieux que le capital-actions, et que l'intérêt d'une telle dette était déductible aux fins de l'impôt sur le revenu, M. Van Scoyoc était d'avis que la Compagnie devrait utiliser au maximum le capital à long terme.

En ce qui concerne l'aspect impôt de cette proposition, l'avocat a commenté que le Parlement ne restera pas toujours sans rien faire si toutes les compagnies devaient augmenter leur prorata de dette d'une façon importante, privant ainsi les fonds publics d'une part prévue de revenus. Par la suite, on devrait imposer des taxes pour rétablir les revenus faiblissants. L'essai de M. Van Scoyoc, cependant, n'était pas nouveau et était un tel lieu commun que M. W.G. Leonard, F.C.A., professeur de commerce et d'administration financière à l'Université Queen's, avait commenté très longuement le problème dans son plus récent

volume, *Financial Management In Canadian Business* (1965). L'avocat-conseil a cité le livre de M. Leonard à la page 126 et voici ce qu'il a lu:

"...les directeurs d'entreprises couronnées de succès adoptent rarement des méthodes financières de cette sorte. Les directeurs manifestent un souci louable au sujet d'un futur imprévisible. De nouveaux emplois de fonds peuvent ne pas être aussi profitables que prévus. Un nouvel emprunt qu'on obtient maintenant peut tomber à une date ultérieure par suite d'un climat financier défavorable au renouvellement des prêts de ce genre; il peut se présenter des menaces à la solvabilité... le conservatisme de la gérance financière peut être soutenu d'une manière subtile par la désapprobation sociale des essais de porter les bénéfices à un maximum d'une façon indue.

"Un autre effet théorique de l'emprunt de société peut être celui d'augmenter le rapport de la corporation de la dette totale à la mise de fonds totale pour obliger les analystes du marché à réduire en importance de placements la qualité des actions de la corporation. Cela pourrait causer une baisse des prix courants des actions. D'autre part, si l'usage judicieux de l'emprunt augmente la contribution au profit et si le conseil d'administration utilise quelques profits additionnels pour déboursier des dividendes communs à des taux accrus, tout fléchissement des prix courants qui en provient sera probablement temporaire...

"Une théorie populaire appuie la méthode de toujours retenir une "réserve d'emprunt" pour un cas futur d'urgence. Les auteurs soutiennent que, dans des situations de concurrence au progrès rapide, des innovations promettant un rendement exceptionnel ont tendance à se produire d'une façon soudaine et imprévue".

L'avocat-conseil a fait ressortir que la proposition d'un prorata de dette plus élevé avait été soumis à la Commission à plusieurs occasions. Dans la décision de la Commission du 15 novembre 1950, (67 C.R.T.C. 1), le Commissaire en chef adjoint déclarait ce qui suit:

"A mon avis, et après un examen minutieux du témoignage rendu devant la Commission et mentionné en partie ici, il serait juste et raisonnable d'accepter, en vue de déterminer les besoins de la Compagnie, le coefficient de dette existant actuellement, soit 40 p. 100. Ce coefficient provient d'une libre détermination de la direction de la Compagnie. Je suis convaincu que, basé sur les prévisions budgétaires et autres motifs trouvés ailleurs, son acceptation pour l'objectif requis ici ne devrait pas être préjudiciable à l'entreprise de la Compagnie".

Cette opinion, a dit l'avocat, a été réaffirmée par une décision de la Commission sur demande de la Compagnie le 25 juin 1958 (78 C.R.T.C. 1).

A ce propos, l'avocat a cité la cause de la *Bell Telephone Company of Canada* contre Montréal, Toronto et Ottawa, (1927), (34 C.R.C. 116), à propos de laquelle le Commissaire en chef de la Commission a déclaré ce qui suit:

“Tant que l'organisation commerciale actuelle continue et que les sociétés de service public seront propriétés privées, l'administration financière générale de ces sociétés doit nécessairement être dans les mains de leurs administrateurs... la fonction de la Commission est la réglementation corrective et non la direction financière”.

Il a aussi cité la cause suivante de *Springfield* contre *Springfield Gas*, (291 Illinois, page 209, à la page 234):

“La Commission n'est pas le directeur financier de la société, et n'a pas le droit de substituer son jugement à celui des administrateurs...”

M. Van Scoyoc, a dit l'avocat, semble avoir admis le principe précédent dans une réponse à une question du Commissaire en chef adjoint, lorsqu'il a répliqué qu'il ne faisait pas de recommandation précise à la Commission pour que la Compagnie ajuste ou que la Commission détermine les tarifs de la Compagnie sur la base d'une structure financière hypothétique.

En ce qui concerne la structure financière de la Compagnie, l'avocat-conseil a déclaré que deux questions devaient être discutées: a) la décision de la Compagnie était-elle toujours juste et prudente? et b) la situation qui a eu cours durant les quinze dernières années domine-t-elle encore aujourd'hui, une situation qui indique qu'il serait imprudent d'opérer tout changement radical du prorata de la dette?

Selon l'avocat, la décision avait été prudente pendant les quinze dernières années. En déterminant un prorata de dette de 40 p. 100, la direction avait utilisé sagement la latitude que, dans des décisions antérieures, la Commission avait déclarée être de son propre ressort. Le choix d'une structure financière convenable doit, en dernière analyse, dépendre largement de l'expérience et d'un jugement financier solide. Le but de l'inclusion de la dette dans la structure financière était de disposer de plus grandes sources de capital et de fournir un avantage aux bénéficiaires des actions ordinaires. Tandis que plusieurs compagnies importantes utilisaient une méthode de capital exempt de dette, cette méthode n'était pas pratique pour la Compagnie Bell qui avait un besoin continu de fortes sommes et par suite réclamait l'accès à toutes les sources importantes de capital. De plus, il y avait des moments où il n'était pas prudent d'émettre des actions et le financement au moyen d'obligations pouvait être la seule solution convenable.

Les structures financières, dit l'avocat, doivent être prévues pour une longue période, compte tenu du fait que le capital-obligations devait être racheté à un moment futur quelconque suivant les conditions des cours qu'on ne pouvait pas

prédire avec précision. Tout avantage à court terme imaginé provenant d'un abus du capital-obligations devait être comparé aux risques et incertitudes additionnels que la Compagnie serait appelée à courir. Les facteurs les plus importants pour déterminer une structure financière convenable étaient: a) la nature et le risque de l'entreprise commerciale; b) la nécessité de maintenir une marge de possibilité d'emprunt; et c) le besoin de conserver une grande possibilité de crédit. Les risques étaient inhérents à toute entreprise commerciale et se reflétaient dans les bénéfices globaux de l'entreprise. Le degré possible de fluctuation des bénéfices par suite des conditions économiques en évolution était une raison importante pour déterminer l'équilibre convenable entre le capital-obligations et le capital-actions.

Selon l'avocat, la comparaison des proratas moyens de dette pendant la période 1960-1964 pour les différents groupes d'industries réglementées que M. Van Scoyoc avait mentionnés a démontré qu'on ne pouvait pas en faire un montant global, comme M. Van Scoyoc l'avait proposé, mais qu'on devrait les grouper en différentes catégories industrielles. Les risques des compagnies de transport de gaz, des services d'électricité, des compagnies des eaux, des compagnies de distribution de gaz et des compagnies de téléphone sont tous différents. M. Van Scoyoc a admis que les compagnies de transport de gaz couraient les risques les moins grands et par suite pouvaient facilement supporter un prorata de dette très élevé. En fait, les statistiques de 1959-1963 donnaient les résultats suivants:

Compagnies de transport de gaz naturel	60.3 p. 100 de prorata de dette
Compagnies des eaux	55.7 p. 100 de prorata de dette
Commission fédérale d'énergie électrique	52.6 p. 100 de prorata de dette
Compagnies de distribution de gaz naturel	45.6 p. 100 de prorata de dette
Chemins de fer	30.7 p. 100 de prorata de dette
<i>Moody's Industrials</i>	15.3 p. 100 de prorata de dette

Ces statistiques, d'après l'avocat, sont une confirmation de celles qu'avait fournies M. Van Scoyoc dans son annexe 3.

Pendant la période de 1959 à 1963, les compagnies de téléphone exploitantes de l'A.T.&T. avaient un prorata moyen de dette de 27.64 p. 100. Lorsqu'il proposait un prorata de dette de 45 à 55 p. 100 pour la Compagnie Bell, M. Van Scoyoc avait négligé les filiales A.T.&T. qui possédaient une capitalisation totale de \$21,500,000,000 et avait préféré s'appuyer sur des moyennes statistiques provenant d'un groupe de compagnies de téléphone qui ont une capitalisation totale de \$1,100,000,000. Ayant laissé de côté le plus important secteur de l'industrie du téléphone, M. Van Scoyoc avait accentué l'erreur en groupant l'information

sur tous les services publics sans évaluer les risques inhérents à chaque groupe de services publics. Si on évaluait convenablement les risques inhérents à chaque industrie en particulier, disait l'avocat-conseil, un prorata de dette de 45 à 55 p. 100 était trop élevé pour la Compagnie Bell et un prorata approximatif de 40 p. 100 était plus approprié.

Les risques plus considérables de l'industrie du téléphone, comparés aux services publics d'électricité, peuvent facilement s'expliquer par les différences dans la nature des services qu'offre chaque industrie. L'industrie du téléphone était unique parmi les services publics parce qu'elle fournissait du matériel "sur place" pour assurer le maintien d'un service efficace. Les communications téléphoniques sont un service à deux sens et un matériel imparfait en tout lieu causerait du désagrément à d'autres abonnés et influencerait défavorablement la valeur de leurs services. Ainsi, disait l'avocat, puisque l'abonné au téléphone n'a pas de placement personnel dans le service téléphonique, il lui est plus facile de laisser le service lorsque sa situation financière l'exige. Celui-ci se trouve donc dans une situation différente de celui qui a un fort capital d'investi dans des appareils électriques chez-lui. Les services publics d'électricité ont acquis une proportion importante de leurs ventes industrielles sur la base d'un contrat à long terme et ceci, allié au placement des usagers au foyer dans le matériel "sur place", assure une immunité relative aux services publics d'électricité en des circonstances économiques adverses. Ces facteurs, par conséquent, tendent à rendre les revenus d'une entreprise téléphonique moins stables que ceux des services publics d'électricité et l'avocat a fait remarquer que la demande d'énergie électrique avait montré une plus grande stabilité dans les années 30.

La Compagnie Bell, de déclarer l'avocat, devait maintenir une marge suffisante de possibilité d'emprunt pour financer l'augmentation afin de pourvoir aux besoins de sa zone de service. Elle devait posséder un accès facile au marché d'obligations et ceci ne serait assuré que si elle ne s'était pas trop prévaluée sur la dette. De plus, elle devait maintenir sa position de crédit qui ne pouvait se réaliser que si le prorata de la dette était maintenu dans une marge jugée convenable aux risques de l'entreprise. Une analyse des cotes des obligations des sociétés a confirmé qu'il y avait une relation définie entre la cote de crédit et le prorata de dette dans la structure financière. La feuille 1 de l'annexe 8 des pièces à conviction de M. Van Scoyoc, d'après l'opinion de l'avocat, a fait ressortir toute l'exactitude de cette affirmation. *General Telephone and Electronics*, avec un prorata de dette de 46.3 p. 100, et la *Rochester Telephone Corporation*, avec un prorata de dette de 48 p. 100, portaient tous deux une cote BBB de *Standard & Poor* sur leurs obligations.

L'avocat-conseil a fait remarquer que la définition de la cote BBB, suivant *Standard & Poor* était la suivante. BBB ou catégorie de degré moyen est la

frontière entre les obligations certainement solides et celles où l'élément spéculatif commence à prédominer. Ces obligations ont suffisamment de biens couverts et normalement sont protégées par des bénéfices satisfaisants. Leur sensibilité vis-à-vis des changements de conditions, surtout des fléchissements, nécessite une surveillance constante. Sur le marché, les obligations s'adaptent mieux aux conditions des affaires et du commerce qu'aux taux d'intérêt. Ce groupe est le dernier qu'on puisse employer pour un placement commercial bancaire.

L'avocat a soutenu que personne ne pourrait suggérer que la Compagnie de téléphone la plus importante du Canada joigne les rangs de celles qui ont une cote BBB pour leurs obligations, compromettant ainsi tout le service de communications du Canada, parce que l'insuccès à réunir un capital-obligations à un coût raisonnable pourrait, de fait, amoindrir l'expansion de l'industrie du téléphone au Canada. Une très bonne cote de crédit était particulièrement importante pour la Compagnie Bell qui devait obtenir d'importants capitaux sur une base continue. Une bonne cote de crédit signifiait qu'elle pourrait non seulement obtenir des capitaux en tout temps, mais aussi de les obtenir à un coût raisonnable. Le coût des obligations variait selon la situation de crédit, et, de plus, les marges différentielles de coût entre les différentes catégories d'obligations variaient avec les conditions économiques en évolution. Lors du déclin des opérations commerciales, les acheteurs sont devenus plus prudents et plus exigeants et la marge différentielle de coût entre les diverses catégories s'est élargie. De telles marges différentielles de coût avaient une implication importante pour la Compagnie qui devait vendre des obligations non seulement pour financer son expansion, mais aussi pour rembourser les émissions existantes à mesure qu'elles parvenaient à l'échéance. La pièce n° B-27 fournissait le témoignage de la Compagnie au sujet du programme de construction des cinq années qui suivraient; celui-ci s'élèverait à \$1,250,000,000 dont \$500,000,000 devraient être obtenus des investisseurs; une partie importante de cette somme serait sous forme d'obligations. Au cours des 25 prochaines années, la Compagnie devrait rembourser l'ensemble de sa dette, soit \$735,000,000; ce qui nécessiterait des emprunts obligatoires pendant 18 des 25 prochaines années.

Une autre proposition relativement au prorata de la dette, a dit l'avocat, était que les risques financiers des années 50 qui avaient été des facteurs dans la formulation du prorata de la dette de 40 p. 100, avaient augmenté progressivement. Les revenus de la Compagnie étaient maintenant plus volatiles que jamais, car plus d'un tiers provenaient du service interurbain et une proportion croissante des recettes provenait de services discrétionnaires. Toute tendance à la baisse dans les conditions financières aurait, par conséquent, un effet plus contraire sur les revenus que dans le passé. La rigidité accrue des dépenses de la Compagnie a aussi mis en lumière les risques plus nombreux de l'entreprise. Par suite des progrès récents de l'électronique, le risque de désuétude

des appareils a augmenté. Finalement, on devait également avoir présent à l'esprit la tendance décroissante à acquitter les intérêts de la dette. Tandis que le coût cumulatif de la dette de la Compagnie Bell s'était accru de 3.98 p. 100 à 4.81 p. 100 depuis la fin de 1959, le nombre de fois que les bénéfices multiplient les intérêts des obligations s'est abaissé d'un peu plus de quatre fois en 1959 à 3.393 fois en 1964. Une telle diminution, a dit l'avocat, ne pourrait pas continuer indéfiniment sans créer un risque sérieux pour le financement futur.

Finalement, l'avocat a allégué qu'à cause des facteurs précédents, un pro-rata de la dette de 40 p. 100 pourrait être considéré élevé compte tenu des conditions de 1965. C'est pourquoi, tout changement actuel ne porterait aucune garantie et la Commission n'a aucune raison de contrecarrer le jugement des administrateurs et du personnel de direction de la Compagnie qui a été porté après un examen attentif de tous les facteurs importants.

(11) Concernant la part de responsabilité de la Commission dans la détermination d'un niveau autorisé de bénéfices pour la Compagnie:

Pendant le témoignage de M. Clarence Barber concernant la revision et la prévision économiques générales, on a soulevé la question de l'étendue des responsabilités de la Commission dans la détermination du niveau de bénéfices permis de la Compagnie. Elle provient de la déclaration suivante de M. Barber dans son principal témoignage:

"...le besoin apparaît pour les responsables de la réglementation d'évaluer en fonction de l'avenir la situation financière de la Compagnie. Ce n'est pas en effet la question des profits d'une seule entreprise qui est en jeu, mais bien un facteur important de l'expansion et du rendement de l'économie canadienne."

En ce qui concerne le bien-être des abonnés de la Compagnie et de la Compagnie elle-même, l'avocat a proposé que le problème initial serait de déterminer la signification du mot "abonnés" et qu'il était difficile de distinguer les intérêts d'une industrie qui fournit des moyens de communication à une grande partie du pays, des intérêts de la nation dans le cours d'une longue période. A ce sujet, l'avocat a rappelé la situation du début des années 50 lorsque des milliers de gens réclamaient le service du téléphone qu'ils ne pouvaient obtenir à un prix raisonnable. Beaucoup de ces milliers de personnes se trouvaient dans des régions non encore desservies par la Compagnie; naturellement, on ne pouvait pas les tenir pour des abonnés.

Pour subvenir aux besoins à long terme du public, les besoins de capitaux relatifs au programme de construction de la Compagnie avaient exigé un effort considérable de ses ressources. Il était certain, selon l'avocat, que les bénéfices

des actionnaires d'alors et, peut-être, les tarifs d'abonnement du temps auraient été meilleurs, si on n'avait pas tenu compte des exigences générales du public, des gens qui n'étaient pas encore abonnés, et de l'économie du pays. L'avocat doutait que quelqu'un puisse suggérer que les intérêts étroits des abonnés et des actionnaires d'alors auraient pu être la seule raison qui influait sur les décisions de la direction de la Compagnie et sur les décisions de la Commission.

Si, disait l'avocat, les intérêts étroits des abonnés et actionnaires actuels étaient les seules raisons, la réponse à brève échéance pourrait bien être de réduire énergiquement le programme de construction, de financer les besoins seulement au moyen d'emprunts, et d'administrer la Compagnie de façon à méconnaître les responsabilités futures et à offrir dans le présent les services le moins cher possible assurant les plus grands bénéfices aux actionnaires. Personne n'a suggéré que ce serait convenable, et, cependant, en rejetant une telle méthode, on doit se rendre compte que les responsabilités assumées par la direction de la Commission dépassaient les intérêts étroits des abonnés et des actionnaires d'aujourd'hui. C'était une responsabilité du public en général, de chaque individu ou de chaque entreprise et cette responsabilité n'était pas changée parce que la Compagnie était soumise à une réglementation.

La Commission, continuait l'avocat-conseil, connaissait bien les études du Conseil économique du Canada et des organismes semblables, concernant les mesures à prendre pour réaliser une économie florissante au Canada. Selon lui, on ne pouvait pas faire fi du rôle important que devait jouer un élément aussi important que la Compagnie Bell. Ce n'était plus uniquement une question de bénéfice pour la Compagnie, mais de démarches hardies que la direction devait entreprendre et révéler à la Commission si elle ne voulait pas manquer à son devoir envers la nation.

Évidemment, disait l'avocat, les fonctions de la Commission n'incluaient pas celles qui se rapportaient à la planification économique. Il était également vrai que la Commission, en exerçant sa juridiction, soit déterminée des tarifs justes et raisonnables, devait examiner attentivement tous les effets de sa décision et parmi ces effets quelques-uns des plus importants pouvaient se rapporter à l'intérêt national.

De l'avis de l'avocat, l'expression unanime des idées de la Commission dans la cause *concernant la Compagnie de téléphone Bell, augmentation de taux*, (78 C.R.T.C. 1, page 8), décrivait ainsi avec justesse le principe directeur de la Commission:

“Bien qu'on ait souvent affirmé que cette Commission n'a pas de fonctions de planification économique, cependant la Commission en exerçant ses pouvoirs tendant à déterminer des taux justes et raisonnables pour toute compagnie qui tombe sous sa juridiction doit, de toute nécessité, examiner

attentivement les résultats généraux qui découlent de la concession ou du refus de la demande d'assistance financière de la Compagnie. D'où, on a jugé qu'il était juste de rapporter certains faits provenant du témoignage de M. T.W. Eadie, président et directeur du conseil d'administration de la Compagnie Bell, pour indiquer l'envergure de l'exploitation de la Compagnie et l'importance de lui conserver son habilité à financer son programme d'expansion financière. A l'audience on n'a pas discuté la partie du témoignage où M. Eadie faisait une description générale de l'exploitation de la Compagnie''.

Dans cette décision, on continuait à citer que M. Eadie avait dit et l'avocat pensait qu'il était important de lire ceci pour le comparer aux déclarations semblables faites par M. Barber et d'autres. Voici la citation:

''M. Eadie a affirmé que dans le cours des années, la Compagnie Bell avait apporté une contribution importante à l'accroissement de l'économie du Canada, qu'elle est une partie intégrante du système de défense nationale, civile et militaire, et que l'on reconnaît généralement son importance dans la vie quotidienne de la population qu'elle sert. Il a fait remarquer que le service de téléphone est passé de 2,000,000 d'appareils en 1952 à plus de 3,000,000 actuellement et que ce nombre s'accroît d'environ 200,000 par année; de plus, il y a presque 20,000,000 d'appels locaux et 355,000 appels interurbains par jour.

La Compagnie emploie environ 41,000 personnes dont la paie se monte à 157,000,000 de dollars par an: elle verse à d'autres pour ameublement, approvisionnements et services plus de 200,000,000 de dollars par année.

La Compagnie a 157,000 actionnaires et, à ce titre, c'est la douzième société de l'Amérique du Nord. De ces actionnaires, 98 p. 100 vivent au Canada et détiennent 92 p. 100 des actions en circulation. La Compagnie a émis plus d'un cinquième de toutes les émissions de titres ordinaires du Canada depuis 1945 et ces titres ont été presque tous achetés par des habitants du Canada. Il y a presque 400,000,000 de dollars en obligations de la Compagnie à recouvrer et les détenteurs de la plupart de ces obligations sont des institutions à qui sont confiées les économies de milliers d'individus.

Dans la période d'après-guerre, les frais de construction de la Compagnie atteignaient une somme de plus de 1,000,000,000 de dollars et, dans le cours des quatre ans de 1955 à 1958, ces débours se monteront à 625,000,000 dollars, somme presque égale au coût estimatif de toute la part canadienne dans la voie maritime du Saint-Laurent. Les frais de construction dépassant 370,000,000 dollars pour les deux années 1958-1959, il faut que la Compagnie Bell obtienne de ses acheteurs environ 240,000,000

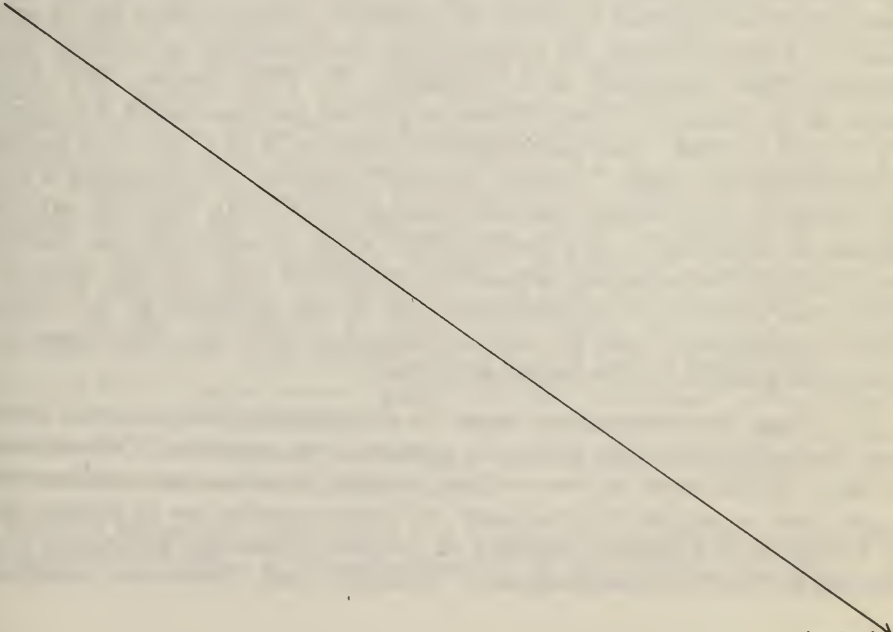
de dollars dont 50,000,000 proviennent d'une émission d'obligations aux États-Unis dans la première partie de 1958. Il reste donc plus de 180,000,000 de dollars à réunir d'ici la fin de 1959.

Le témoignage préliminaire de M. Eadie conclut avec la remarque suivante:

Tout cela a été accompli sans aucune augmentation des tarifs de téléphone depuis mars 1952. Certes, en s'opposant à toute augmentation de tarif pendant six ans, la Compagnie a contribué puissamment à la stabilisation des prix''.

Les paroles de M. Eadie en 1958, a dit l'avocat, sont les mêmes que celles de M. Barber, lorsque celui-ci a mentionné l'importance de la défense nationale et de l'économie canadienne. M. Barber n'était pas seul à parler; les voix dignes de confiance parmi les experts en économie et les représentants du gouvernement du Canada, parlent à l'unisson de la nécessité de planifier pour l'avenir si le Canada veut être prospère et maintenir son niveau de vie propre. Personne n'a contesté que les méthodes avancées de communication étaient un élément essentiel du progrès de toute économie moderne.

En terminant, l'avocat exprimait l'avis que le résultat général d'une décision de la Commission réclamait l'étude des mesures nécessaires à prendre pour que la Compagnie puisse jouer pleinement son rôle dans le développement de l'économie nationale, rôle qui était nécessairement essentiel à l'accomplissement des obligations de la Compagnie envers ses abonnés, présents et futurs, et envers ses actionnaires.



(suite)

(12) Le niveau autorisé des bénéfices de la Compagnie:

L'avocat a fait observer que l'industrie du téléphone avait un appétit quasi insatiable pour les fonds d'immobilisation. Depuis 1959, la compagnie a dépensé environ 1,300 millions de dollars pour son programme de construction et ces dépenses pendant la période de 5 ans se terminant en 1959 totaliseraient environ 1,250 millions de dollars. Le programme de construction était nécessaire pour répondre à la montée en flèche des demandes de service et celui-ci, à son tour, exerçait une forte demande continue sur le marché des actions et sur celui des obligations à long terme. Entre 1959 et 1964, la compagnie avait émis \$375,000,000 en obligations, chiffre qui représentait 7.9 p. 100 de toutes les émissions des entreprises pendant cette période. De plus, elle a émis \$409,000,000 sous forme d'actions, soit 22.7 p. 100 de toutes les émissions d'actions au Canada. L'ampleur et la répétition constante de cette tâche financière, disait l'avocat, ont rendu nécessaire que les titres de la compagnie soient aussi attrayants aux investisseurs que les valeurs d'autres compagnies.

Un nombre croissant de décisions relatives aux investissements sont prises par des investisseurs de plus en plus avertis. Les quatre groupes de portefeuillistes d'institutions, (les caisses de retraite, les sociétés de placement, les compagnies d'assurance et diverses institutions), avaient augmenté de 380 p. 100 la valeur marchande de leurs actions ordinaires dans les dix dernières années, soit de \$750,000,000 à \$3,600,000,000. Entre 1958 et 1963, le nombre d'actionnaires des compagnies canadiennes de placement est passé de 171,000 à 316,000, une grande part de cette augmentation était attribuable à des individus de modestes moyens qui y ont contribué au moyen de paiements réguliers plutôt que de grosses sommes. Le rôle croissant du portefeuilliste professionnel se reflétait dans le changement des sociétaires de la compagnie. En 1958, environ 28 p. 100 des actions de la compagnie étaient détenues par des portefeuillistes d'institutions, mais à la fin de 1964, leurs portefeuilles s'élevaient à 35 p. 100. Ces portefeuillistes intelligents, disait l'avocat, auraient multiplié les occasions d'investir leurs fonds en des valeurs qui réaliseraient leurs trois objectifs principaux: amélioration financière à long terme, protection de la valeur de leur investissement et un taux de rendement raisonnable compatible avec les deux premiers objectifs. Ces objectifs ne se réaliseront que si les bénéfices de la compagnie peuvent se comparer à ceux des autres compagnies, après que les risques et les incertitudes auront été convenablement évalués.

Le climat économique dans lequel la compagnie devrait concourir pour des fonds d'immobilisation doit être aussi examiné avec attention. L'avocat a remarqué que M. Barber avait fait une analyse complète de la croissance économique du Canada dans la période d'après-guerre, et l'avait projetée sur la période de cinq ans à venir avec l'aide des rapports du Conseil économique du Canada et de la Commission Hall. Le développement formidable que l'économie canadienne a

réalisé dans les quinze dernières années est dû principalement au haut niveau des dépenses en immobilisations des entreprises privées et du gouvernement. Les investissements de capitaux au Canada, exprimés par un pourcentage du produit national brut, dépassaient d'une large marge les niveaux dominants aux États-Unis, mais pour affronter avec succès le défi de procurer de l'emploi à une main-d'oeuvre qui croissait plus rapidement que celle des États-Unis ou de l'Europe de l'ouest, le Canada devait remplir un certain nombre de conditions essentielles. Les voici, telles que les avait exposées M. Barber: a) le maintien d'un haut niveau d'investissement de capitaux; b) une disposition suffisante de formation et d'enseignement; et c) une mobilité accrue de main-d'oeuvre. La première revue annuelle du Conseil économique du Canada avait aussi énuméré les conditions essentielles pour parvenir aux buts fixés pour 1970: a) un investissement accru des ressources humaines; b) une mobilité améliorée de ces ressources; c) une plus grande spécialisation et une meilleure organisation de la production; d) des progrès technologiques plus rapides et plus efficaces; e) un plus grand investissement de capital immobilisé; et f) plus d'initiative et de hardiesse pour augmenter la production des ressources économiques. A ce propos, M. Barber avait affirmé qu'il y aurait certes une forte concurrence sur le marché des capitaux et qu'une partie importante de tout le montant requis devrait être prise à l'extérieur.

L'avocat a fait observer qu'il y avait déjà des signes d'accroissement de la concurrence pour les fonds d'immobilisation. Ceci, disait-il, était la haute atmosphère de concurrence dans laquelle la compagnie devrait, année par année, réunir les centaines de millions de dollars nécessaires à fournir un service supplémentaire. De bonnes communications étaient essentielles à la gestion rapide et efficace des affaires et la compagnie ne pourrait pas jouer son rôle dans le développement du pays si son programme de construction était réduit par manque de fonds. Cependant, elle pourrait attirer le capital nécessaire si elle était en bonne position financière et si le niveau de ses bénéfices pouvait se comparer à ceux des autres industries comportant des risques semblables. Le témoin de la compagnie, M. Morton, avait exposé les principes fondamentaux sous-jacents à cette théorie, généralement acceptée des autorités régulatrices, par la Cour suprême du Canada et par la Cour suprême des États-Unis, lorsqu'il avait dit qu'un juste remboursement était un remboursement de concurrence qui permettrait d'attirer le capital requis pour financer l'entreprise. M. Morton avait affirmé de plus qu'un tel remboursement de concurrence pourrait être désigné sous le nom de capacité de gain du capital, ou ce que le capital pourrait gagner dans des entreprises en concurrence comportant des risques semblables; on l'a également appelé le critère de bénéfices comparatifs d'un rendement raisonnable, concept relié aux épreuves juridiques d'un rendement raisonnable aux États-Unis.

L'avocat a affirmé que, pour fournir à la Commission les éléments essentiels qui permettraient d'évaluer le niveau comparatif de gain d'autres industries, la

compagnie avait offert des témoignages considérables. La pièce n° B-45, préparée par M. Morton, comparait l'exécution financière relative des valeurs ordinaires de la compagnie avec celles des entreprises industrielles canadiennes, et avec celles des entreprises industrielles et de service public des États-Unis pendant la période 1947-1963. Les pages 1 à 4 inclusivement de cette pièce comparaient les taux de développement et indiquaient que les valeurs ordinaires de la compagnie ont été retardées considérablement par rapport aux autres occasions d'investissement. Voici la comparaison:

Page	Augmentation	Cie Bell	Écart pour les autres cie ou groupes de com- pagnies*
1	Valeur aux livres par action	14%	47% à 209%
2	Cours en bourse par action	23%	133% à 394%
3	Bénéfices par action	17%	45% à 167%
4	Dividendes par action	10%	20% à 200%

* *Canadian Business Service 100 Stocks* ne comprend que la période 1949-1963.

Les pages 5 à 8 inclusivement de la pièce n° B-45 traitaient des taux de gains de l'avoir propre en actions ordinaires. Pendant la période 1947-1964, la compagnie avait eu un taux moyen de 6.78 p. 100 sur l'avoir propre. A ce sujet, l'avocat a fait remarquer que le taux gagné par la compagnie sur l'avoir propre en actions ordinaires avait un niveau plus raisonnable pendant les années qui ont suivi la décision de 1952 de la Commission, confirmant par là les vues des spécialistes, selon qui il y avait eu un retard régulateur qui expliquait le bas pourcentage des bénéfices en certaines années d'après-guerre. Par exemple, le taux gagné sur l'avoir propre de la compagnie en actions ordinaires était de 7.81 p. 100 en 1952, 8.21 p. 100 en 1953 et de 7.48 p. 100 en 1954; par après, il a baissé graduellement jusqu'à 6.21 p. 100 point le plus bas atteint en 1958 et alors a commencé son ascension après cette année. La page 5 de la pièce n° B-45 comparait le taux moyen de la compagnie avec la moyenne de 1947-1963 pour l'A.T. & T. de 8.58 p. 100, pour la *Federal Power Commission A & B Electric* de 10.47 p. 100**, pour les 125 valeurs industrielles de *Moody* de 13.64 p. 100 pour 30 valeurs industrielles de *Dow-Jones* de 11.57 p. 100, et pour 425 valeurs industrielles de *Standard & Poor* de 12.66 p. 100; cette page comparait aussi le taux moyen de la compagnie avec la moyenne de 1949-1963 pour les 100 actions de la *Canadian Business Service* de 11.5 p. 100 et pour les 65 valeurs industrielles de la Bourse de Montréal de 12.65 p. 100.

** L'avocat des municipalités disait que ce chiffre devrait être de 10.74 p. 100.

L'avocat-conseil déclarait qu'il était intéressant de comparer les résultats précédents avec le taux sur le capital entier gagné par les compagnies de téléphone dont la liste se trouve dans le témoignage de M. Van Scoyoc. Ce qui a été fait dans la pièce n° B-95 qui montrait que le rendement du capital global de ces douze compagnies de téléphone atteignait la moyenne de 7 p. 100 et de 7.2 p. 100.

M. Groleau, ajoutait l'avocat, avait aussi soumis des tableaux comparatifs indiquant que non seulement la compagnie n'avait pas réussi à égaler le rendement d'autres compagnies, mais aussi que l'intégrité du placement n'était pas protégée. La pièce n° B-63 comparait le taux gagné sur l'avoir propre de la compagnie avec celui qu'avaient gagné les 65 actions industrielles pendant la période 1949-1958, la moyenne de Bell étant de 6.6 p. 100 et celle des valeurs industrielles de 14 p. 100. La pièce n° B-65 comparait le rendement de la compagnie dans la période de 1946-1963 avec celui des 66 compagnies manufacturières, divisées en trois groupes: a) celles qui ne maintenaient pas la valeur de placement en relation avec l'indice des prix au consommateur; b) celles qui avaient des valeurs d'avenir satisfaisantes; et c) celles qui montraient un accroissement extraordinaire en valeur de placement. Ces groupes avaient des taux moyens de bénéfices sur l'avoir propre commun: a) 8 p. 100; b) 11.7 p. 100; et c) 14.2 p. 100. Le taux moyen de la compagnie Bell était de 6.8 p. 100. Les 33 compagnies qui se révélaient des valeurs d'avenir satisfaisantes pour un taux moyen de 11.7 p. 100 se subdivisaient en deux groupes selon la pièce n° B-66: a) 16 compagnies dont les bénéfices les plus bas avaient une moyenne de 8.4 p. 100; et b) 17 compagnies dont les plus hauts bénéfices avaient une moyenne de 14.8 p. 100. La pièce n° B-67 comparait le taux moyen de la compagnie Bell sur l'avoir propre commun pendant la période 1949-1963 avec quatre autres possibilités de groupes de placement et montrait que la compagnie Bell était une fois de plus retardataire. Cette statistique, disait l'avocat, surtout celle de la pièce n° B-66, indiquait que le minimum que la compagnie devrait gagner sur l'avoir propre commun était de 8.4 p. 100, taux gagné par les 16 compagnies manufacturières montrant un accroissement satisfaisant de valeur de placement par rapport à l'indice des prix au consommateur. Si la compagnie était incapable d'atteindre ce rendement de bénéfices, elle ne serait pas capable de préserver l'intégrité du capital investi dans la compagnie et manquerait d'un des éléments essentiels qui sont nécessaires pour déterminer un niveau juste et raisonnable de profits, c'est-à-dire, la protection du capital de l'investisseur.

L'avocat a fait remarquer qu'on avait soulevé une objection concernant la demande voulant que l'on permette à la compagnie de gagner environ 8.5 p. 100 sur son avoir propre commun, sous prétexte que cela transformerait les actions à revenu de la compagnie en valeurs d'avenir. M. Acheson, traitant de l'apprécia-

tion de la compagnie par les bailleurs de fonds, avait indiqué que les actionnaires s'intéressaient aux actions à croissance modérée et M. Morton avait affirmé que, sans espoir d'accroissement, il ne semblait pas possible que les investisseurs continueraient à acheter les valeurs ordinaires de la compagnie à un rendement égal ou inférieur à celui qu'ils pouvaient obtenir des autres valeurs industrielles canadiennes offrant des perspectives d'accroissement. M. Van Scoyoc avait affirmé que le capital-actions de la compagnie Bell se composait de valeurs à revenus et, au contre-interrogatoire, il avait examiné les compagnies énumérées par *Standard & Poor* sous le titre de valeurs à revenus et les avait trouvées exactes. La liste de *Standard & Poor* indiquait que ces valeurs à revenu avaient atteint la moyenne de 11 p. 100 sur l'avoir propre commun pendant la période de 1950-1963; pendant la même période, les profits de la compagnie Bell avaient été de 7 p. 100 sur l'avoir propre commun.

Si au cours de la période d'après-guerre, le rendement des bénéfices de la compagnie avait été inférieur à celui d'autres placements, comment la compagnie s'y est-elle pris pour réunir les fonds d'immobilisation dont elle avait besoin? L'avocat disait que la réponse à cette question avait été donnée par M. Groleau et M. Acheson. Il y avait deux périodes qui entraient en jeu à l'examen de cette question: a) les années allant jusqu'à 1958; et b) la période de 1959 à aujourd'hui. Dans la première période, quatre facteurs ont aidé la compagnie à recueillir des fonds: (1) le rendement des dividendes passés de la compagnie; (2) les espérances extraordinaires de croissance de l'industrie du téléphone; (3) les offres de droits; et (4) la situation florissante du marché. Les dividendes que la compagnie avait payés sans interruption depuis fort longtemps avaient impressionné les investisseurs; les espérances d'accroissement avaient inspiré confiance en la sécurité et le revenu constant; les offres de droits avaient fourni une mesure de croissance et une barrière partielle contre l'inflation; et les conditions économiques favorables du début des années 50, accompagnées d'une inflation rapide, avaient créé de fortes conditions financières pour les mises de fonds. Dans la seconde période, de 1959 à aujourd'hui, deux facteurs ont rendu possible le financement de la compagnie: (1) une concurrence diminuée des marchés financiers qui est le résultat d'une baisse du financement tout entier par les sociétés canadiennes; et (2) les améliorations des bénéfices de la compagnie sur la mise de fonds de 6.2 p. 100 en 1958 à 7.4 p. 100 en 1964. Ces bénéfices améliorés avaient rendu possible un dividende accru en 1959 qui avait renforcé la situation de concurrence des actions.

L'avocat a mis en doute que de tels facteurs puissent exister dans les années à venir. L'impressionnant rendement des dividendes au cours des années passées avait perdu beaucoup de son attrait parce que nombre d'autres valeurs avaient maintenant une histoire de 25 ans ou plus de paiements ininterrompus

de dividendes et l'accroissement de la compagnie en dividendes n'avait été que de 10 p. 100, comparé à des augmentations beaucoup plus fortes pour d'autres compagnies. Les espérances de croissance n'étaient plus aussi impressionnantes; on avait maintenant satisfait à une demande contenue et le programme de construction ne montrait plus les augmentations annuelles formidables de la période d'après-guerre. Les offres de droits avaient perdu et perdraient graduellement de leur attraction, parce que de nouvelles émissions d'actions représenteraient une proportion continuellement décroissante de la structure de base du capital. La concurrence réduite des fonds d'immobilisation depuis 1959 jusqu'à aujourd'hui n'existera pas dans l'avenir; le rapport du Conseil économique et le témoignage de M. Barber ont tous deux fait ressortir ce point. Selon l'avocat, si les facteurs obtenus dans le passé n'existent plus, et si la concurrence des fonds d'immobilisation devenait de plus en plus aiguë, il était de la plus haute importance que la compagnie soit en mesure d'égaliser le rendement de bénéfices de ses concurrents sur le marché financier, dans le but d'attirer les fonds nécessaires pour donner le genre de service qu'on en attend.

La compagnie et aussi la Fédération canadienne des maires et des municipalités avaient présenté un témoignage en faveur d'un rendement du capital. Il n'y avait de désaccord que sur le pourcentage suffisant qui représenterait un niveau juste et raisonnable de bénéfices. La Fédération avait exigé que la Commission fixe ce pourcentage à 7 p. 100 sur l'avoir propre commun, tandis que la compagnie avait démontré que 7 p. 100 sur l'avoir propre serait tout à fait insuffisant et que 8.5 p. 100 serait un chiffre plus réel.

L'avocat a affirmé que, dans la situation économique prédominante des années 50, des bénéfices suffisants à payer le dividende "historique", plus un montant supplémentaire pour les bénéfices réinvestis suffisaient probablement à réaliser les espérances des investisseurs comme ils les ont exprimées. Le climat était maintenant changé et cela avait incité la compagnie à suggérer que l'on modifie la méthode de calcul relative au niveau des bénéfices. Suivant la méthode que la Commission utilisait jusqu'à maintenant, les bénéfices que l'on permettait par action n'avaient pas de relation avec la valeur comptable des actions, et l'investisseur n'avait pas eu la possibilité de gagner sur la valeur comptable accrue des actions. Comme M. Morton l'avait exposé, un nombre fixe de dollars par action, s'ils étaient imposés de force, ne tiendraient pas compte des bénéfices accrus par action lorsque le rendement de la compagnie se serait amélioré, ou lorsque les contributions des actionnaires auraient augmenté l'avoir comptable par action; puisque l'usage effectif des ressources requerrait que toute augmentation de capital se justifie par elle-même, toute addition au capital-actions devrait accompagner le droit de gagner un rendement raisonnable sur l'accroissement de ce capital supplémentaire. Ainsi, disait l'avocat, une fois que la Commission aura déterminé un juste pourcentage de bénéfices sur l'avoir propre

commun, le gain de l'actionnaire sera en fluctuation suivant l'augmentation ou la baisse de son investissement dans la compagnie. Ceci encouragerait aussi la direction à opérer en marge de la méthode de "régie intéressée"; et ce sera un aiguillon vers des opérations plus efficaces. Le progrès, avait dit M. Morton, ne découlait pas de la réduction du rendement du capital, mais de la réduction du coût de production.

La zone de modération du taux de rendement de l'avoir propre de la compagnie, disait l'avocat, commençait à 8.5 p. 100, mais la compagnie était si éloignée alors de cette exigence minimum que la Commission n'a pas eu besoin de déterminer le plafond ou la limite maximale de cette zone. Le bénéfice suggéré de 8.5 p. 100 sur l'avoir propre était un composé de la plus vaste variété possible d'investissements alternatifs, réglementés ou non.

On n'avait pas eu recours aux compagnies les plus prospères pour déterminer les exigences minimales, et le vaste échantillonnage de compagnies qui avaient été utilisées offrait tous les éléments nécessaires pour parvenir à une conclusion bien raisonnée. Une fois la structure financière de la compagnie déterminée, et une fois qu'on s'est assuré du coût cumulatif de la dette à long terme, le bénéfice sur tout le capital n'était plus qu'un simple calcul mathématique.

Finalement, l'avocat déclarait que la compagnie avait fourni un témoignage décrivant les changements d'attitude des investisseurs depuis 1958 et les espérances économiques pour l'avenir; et qu'il avait démontré que ses bénéfices courants n'excédaient pas ceux d'un niveau juste et raisonnable. La compagnie avait de plus suggéré que le niveau autorisé de bénéfices soit exprimé comme un pourcentage du capital global ou du capital-actions, déviation de la méthode suivie auparavant par la Commission et qui a été attribuée aux changements des conditions économiques qui ont eu lieu depuis 1958. Cette nouvelle méthode n'a pas été contestée par l'avocat des municipalités et la seule discussion portait sur le pourcentage de rendement à utiliser. M. Van Scoyoc avait suggéré 7 p. 100 sur l'avoir propre, mais M. M. Groleau et M. Morton avaient établi qu'un bénéfice de 8.5 p. 100 sur l'avoir propre ou de 7 p. 100 sur tout le capital, était au plus bas degré d'une marge raisonnable, et, ce faisant, la compagnie aurait utilisé les critères courants de l'attraction de capitaux, des bénéfices comparables, et le maintien de la stabilité financière. Sans ces bénéfices, la compagnie aurait de la difficulté à attirer, à des conditions raisonnables, le capital requis pour étendre ses services, à cause du climat de haute concurrence et du raffinement accru des investisseurs.

Les industries réglementées, disait l'avocat, faisaient partie de tout le complexe industriel. La compagnie ne se trouvait pas dans une niche, laissée à elle-même, coupée de toutes les activités industrielles; elle entrait même en con-

currence pour la main-d'oeuvre, le matériel, la direction, le dollar du consommateur et les fonds d'immobilisation. Elle a même été en concurrence avec d'autres moyens de communications offrant des services semblables ou des moyens différents de communications; sa position dite de monopole naturel a été contestée par des adversaires forts et agressifs et la position privilégiée du passé diminuait graduellement en importance. Devant soutenir la concurrence d'une façon quotidienne, la compagnie devait avoir l'occasion de réaliser des bénéfices à un niveau comparable à celui des industries avec lesquelles elle rivalise. Si la compagnie n'avait pas cette occasion, sa puissance financière s'affaiblirait et l'abonné habituel serait probablement le premier affecté par une telle baisse.

(13) La formule de conclusions de la Commission:

L'avocat a affirmé que la Commission avait demandé à la Compagnie de lui envoyer un exposé des raisons qu'elle voulait présenter à la Commission afin de justifier le niveau permmissible de recettes, lequel niveau serait réclamé comme étant juste et raisonnable par la Compagnie dans de telles circonstances, et lequel exposé servirait de base aux fins d'autoriser un tel niveau permmissible de recettes. A la suite de cette demande, la Compagnie avait présenté un mémoire le 28 novembre 1964 dans lequel elle traitait des deux sujets que la Commission lui avait demandé de faire, et ceci, après qu'elle eut élaboré sur les changements d'économie de la Compagnie depuis 1958.

AU SUJET DE l'étude, par la Commission, des questions relatives
à La Compagnie de Téléphone Bell du Canada telles que
spécifiées à l'avis de la Commission en date du
22 septembre 1964.

Dossier numéro: cause 955.176

**DÉCLARATION
DE
LA COMPAGNIE DE TÉLÉPHONE BELL DU CANADA**

La Compagnie de Téléphone Bell du Canada (ci-après appelée "la Compagnie") soumet les énoncés suivants pour donner suite à l'avis émis par la Commission le 22 septembre 1964 sous son numéro de dossier "cause 955.176".

(1) Cette déclaration traite des matières énumérées audit avis de la Commission; elle ne porte donc pas sur le bien-fondé des taux actuels.

(2) La Compagnie, à cause de son rôle important dans l'économie canadienne et comme rouage essentiel de la défense nationale, du gouvernement et de la vie économique et sociale du Canada, a non seulement l'obligation fondamentale de fournir, dans chaque localité qu'elle dessert, des téléphones du plus récent modèle alors utilisé par la Compagnie, mais elle doit sans cesse s'efforcer de

fournir la grande variété de genres de communication nécessaires à l'essor économique soutenu du Canada.

(3) La Compagnie a présentement plus de 4,275,000 téléphones dans le territoire qu'elle dessert, comparativement à 3,140,000 en 1958. Les demandes non satisfaites pour téléphones additionnels sont peu nombreuses mais plus de 200,000 téléphones additionnels devront être installés chaque année.

(4) La Compagnie emploie plus de 36,000 personnes à qui elle versera en 1964 des salaires estimés à \$187,000,000. La Compagnie paye à d'autres plus de \$250,000,000 par année pour matériaux, fournitures et service.

(5) Durant la décennie d'après-guerre précédant la décision de la Commission de 1958, les efforts déployés par la Compagnie pour faire honneur à ses obligations envers les abonnés furent, en grande partie, consacrés à satisfaire les commandes en suspens pour service téléphonique et pour une catégorie supérieure de service. A la fin de 1958, les commandes de service non satisfaites se chiffraient par environ 6,000, comparativement à 77,000 en 1945 et à 88,000 en 1950. Les commandes en suspens pour catégories supérieures de service se situaient à environ 12,000 en 1958, comparativement à 108,000 en 1950. En donnant suite aux demandes pour service téléphonique additionnel, la Compagnie voyait le nombre de téléphones en service atteindre 3,140,000 à la fin de 1958, comparativement à 1,050,000 à la fin de 1945.

(6) Pour répondre à la demande toujours croissante entre la fin de l'année 1945 et celle de 1958, l'actif global de la Compagnie était passé de \$294,000,000 à \$1,492,000,000. Durant la même période, la Compagnie avait émis pour environ \$398,000,000 d'obligations et \$500,000,000 d'actions ordinaires.

(7) Si, durant la deuxième décennie d'après-guerre qui s'achève en 1964, la Compagnie a pu graduellement répondre à toutes les demandes de service d'une façon normale, elle a dû en même temps faire face aux changements profonds qui se sont produits dans les techniques industrielles et particulièrement dans l'industrie des télécommunications. Ces facteurs, tout comme l'essor général de l'économie du pays, ont engendré des demandes variées plus nombreuses pour de nouveaux genres de service, tant dans le domaine des affaires que dans le domaine résidentiel.

(8) De 126.2 qu'il était à la fin de 1958, l'indice des prix à la consommation est passé à 135.6 en octobre 1964, période durant laquelle la direction de la Compagnie a poursuivi ses efforts en vue de réaliser la méthode d'exploitation la plus économique et de promouvoir l'utilisation des services accessoires qu'elle mettait au point et avait à offrir. En ce faisant, la Compagnie, en plus d'agir dans l'intérêt de l'économie nationale, avait comme objectif d'éviter toute hausse du niveau général des taux pour ses services de base et d'engendrer les bénéfices nécessaires pour attirer les capitaux requis et lui permettre ainsi de fournir les services demandés par ses abonnés tant présents que futurs.

(9) La Compagnie appartient aux Canadiens. De ses 207,000 actionnaires, 97.4 pour cent résident au Canada et 93.7 pour cent de ses actions sont détenues au pays. L'*American Telephone and Telegraph Company* ne possède maintenant que 2.6 pour cent des actions de la Compagnie, comparativement à 21.7 pour cent en 1945.

(10) Pour assurer un approvisionnement vraiment canadien d'équipement de communication, la Compagnie a rapatrié les actions de sa filiale *Northern Electric Company Limited* détenues par des étrangers. *Northern Electric* a un actif de \$164,000,000 et emploie 18,000 personnes. En plus, chaque année, elle dépense \$138,000,000 en matériaux, fournitures et services.

(11) Les besoins de la Compagnie, de ses filiales et de ses fournisseurs, sur les marchés de matériaux et de main-d'œuvre du Canada, sont un facteur important dans le maintien d'une économie nationale florissante.

(12) De plus, la Compagnie a pris conscience, comme mentionné ci-dessus, du rythme accéléré avec lequel la technique progresse et que cela l'oblige à une vigilance de tous les jours afin de marcher sans cesse de pair avec les progrès de l'industrie et d'améliorer sans relâche la compétence de sa direction et de son personnel.

(13) La Compagnie a donc favorisé le développement des aménagements de recherches de la compagnie *Northern Electric* pour assurer, dans la mesure du possible au Canada, la création de nouvelles techniques. En même temps, la Compagnie, de par son contrat avec l'*American Telephone and Telegraph Company*, garde un accès immédiat aux développements et brevets, et ce, à un niveau mondial plus élevé. La Compagnie et les autres réseaux qui fournissent la majorité des téléphones au Canada, ont donc accès aux renseignements les plus récents sur le téléphone et les affaires, au coût le plus bas.

(14) L'évolution rapide de la technologie durant la dernière décennie a provoqué la mise au point de nombre de nouvelles techniques destinées à réduire la main-d'œuvre mais elle a accentué d'une façon marquée le facteur désuétude de l'outillage téléphonique actuel. Par conséquent, la Compagnie, au moyen de programmes de formation, s'est efforcée de réaffecter à des secteurs plus productifs certains de ses employés dont les services n'auraient autrement pas été requis et elle a pu constater une réduction correspondante dans le coût de la main-d'œuvre. Elle a aussi été témoin d'une hausse des frais d'amortissement ainsi que des dépenses constantes inhérentes à son industrie, ce qui a nécessairement pour effet de rendre la Compagnie plus vulnérable en face des fluctuations de l'économie nationale.

(15) Depuis 1958, l'actif de la Compagnie s'est accru de \$1,492,000,000 à \$2,500,000,000 et les besoins en capitaux de la Compagnie ont exigé l'émission de \$375,000,000 d'obligations et de \$405,000,000 d'actions ordinaires. On estime à \$1,250,000,000 les besoins d'immobilisations de la Compagnie pour les cinq

prochaines années et il y aura des demandes répétées sur le marché des capitaux pour les nouvelles émissions d'obligations et d'actions de la Compagnie.

(16) La décennie qui se termine en 1964 a vu des changements marqués dans les exigences des investisseurs à l'égard des valeurs de la Compagnie. Cette nouvelle attitude provient du développement de l'économie nationale et de facteurs particuliers à la Compagnie. Vu l'économie dynamique du pays et l'évolution rapide du marché des capitaux, ces changements ne semblent pas prêts de cesser.

(17) Le taux d'intérêt exigé par les investisseurs sur les émissions d'obligations s'est constamment accru. Le pourcentage décroissant des droits de souscription réservés aux actionnaires de la Compagnie sur les émissions d'action et le rendement qu'offrent aux investisseurs les actions d'autres compagnies, tant en dividendes qu'en appréciation de capital, sont des facteurs qui affectent l'attrait des émissions d'actions de la Compagnie.

(18) L'importance et la fréquence des demandes de la Compagnie sur le marché des capitaux affectent les investisseurs éventuels dont un grand nombre recherchent une diversification de leurs avoirs. Les émissions d'actions d'autres compagnies sont devenues plus fréquentes que par le passé et elles promettent de l'être davantage à l'avenir.

(19) La Compagnie a été obligée en 1959 de porter le dividende annuel de \$2.00 à \$2.20 par action, dans le but de mitiger, dans une certaine mesure, pour ses actionnaires actuels et éventuels, la comparaison défavorable entre le rendement de ses actions et les bénéfices sur lesquels pouvaient compter, dans le présent et dans le futur, les détenteurs d'actions d'autres compagnies.

(20) Il est devenu de plus en plus évident qu'une économie nationale dynamique et qu'un marché de capitaux toujours en mouvement rendent désuètes les anciennes normes d'évaluation des exigences des investisseurs; à cause de ses demandes répétées de nouveaux capitaux, la Compagnie doit être en mesure de faire face aux circonstances et conditions changeantes. Le manque d'investisseurs éventuels en nombre suffisant, à l'occasion d'une offre de valeurs par la Compagnie, endommagerait sérieusement son crédit et sa capacité de continuer de fournir les services requis par ses abonnés.

(21) Pour répondre à ces conditions changeantes, la Compagnie s'est efforcée de présenter un tableau plus attrayant des bénéfices présents et futurs sans pour cela modifier la structure de base actuelle des taux et elle continuera d'agir de la sorte en s'efforçant constamment d'accroître son efficacité, de réduire ses dépenses et promouvoir l'accroissement des revenus, particulièrement dans des domaines autres que ceux des services de base qu'elle fournit aux abonnés.

(22) L'application de tout barème acceptable d'un rendement raisonnable aux actionnaires et des exigences des actionnaires éventuels démontre que le niveau actuel des bénéfices de la Compagnie n'excède pas un niveau juste et raisonnable. En vérité, ces barèmes indiquent que la Compagnie doit déployer toute son

ingéniosité et utiliser toutes ses ressources pour une amélioration de sa position quant aux bénéfices, si elle veut continuer à satisfaire aux demandes de ses abonnés.

Par conséquent, la Compagnie soumet que:

- (a) ses bénéfices actuels n'excèdent pas un niveau juste et raisonnable;
- (b) la base sur laquelle un niveau juste et raisonnable des bénéfices peut être autorisé devrait tenir compte de tous les critères pertinents. Ces critères devraient comprendre;
 - (i) la capacité de la Compagnie d'obtenir à longue échéance des bénéfices qui seront comparables à ceux que peuvent toucher les investisseurs dans d'autres compagnies compte tenu des risques et des incertitudes;
 - (ii) le maintien de l'intégrité financière et du crédit de la Compagnie; et
 - (iii) sa capacité présente et future d'attirer les capitaux nécessaires pour fournir les services requis, le tout dans l'intérêt de ses abonnés et de l'économie nationale:
- (c) l'application des divers critères servant à déterminer un niveau juste et raisonnable des bénéfices ne permet pas de calculs mathématiques précis à l'égard de ces bénéfices pour des périodes de temps prolongées, quand ils sont envisagés à la lumière de l'évolution rapide du climat économique du Canada et, plus particulièrement, du marché des capitaux. En tenant compte des circonstances prévisibles, un rendement d'environ 7 pour cent sur le capital global investi dans la Compagnie serait juste et raisonnable.

Montréal, ce 28 novembre 1964.

P.C. Venne, c.r.,
Vice-président et conseil,
La Compagnie de Téléphone Bell du Canada,
1050, côte du Beaver Hall,
MONTREAL 1, P.Q.

L'avocat-conseil a déclaré évident qu'après le début des audiences, il doit y avoir au moins une conclusion de la Commission concernant l'affirmation de la compagnie que ses bénéfices courants n'excèdent pas un niveau juste et raisonnable. Certains intimés s'étaient mis en demeure d'obliger les témoins de la compagnie à fixer une période précise pendant laquelle ils seraient d'avis que la compagnie pourrait atteindre son but, un bénéfice de 7 p. 100 sur tout le capital. De la sorte, ils avaient négligé la déclaration de la compagnie que des calculs mathématiques précis étaient une impossibilité et que le rendement approximatif de 7 p. 100 était prévu parmi les possibilités futures.

L'avocat a fait remarquer que le professeur Bonbright, qui avait comparu comme témoin devant la Commission il y a quelques années, avait pris une position intéressante sur la question des bénéfices. Il l'a mentionné dans son récent ouvrage *Principles of Public Utility Rates* (1961), où il déclarait ce qui suit, en commençant au bas de la page 259:

"En ce qui concerne les fluctuations plus ou moins régulières de l'activité commerciale alliée au cycle ordinaire de la finance, le principe généralement accepté de la détermination du taux de bénéfices est très clair, bien que la pratique présente des difficultés. À peu d'exceptions près, les tarifs des services publics ne sont pas soumis à des fluctuations à chaque année dans le but de maintenir un taux stable de rémunération sur l'investissement financier. Au lieu de cela, ils sont fixés pour un avenir indéterminé, soumis à une revision possible dans environ une année, mais plus probablement après plusieurs années. Lorsqu'on discute d'un cas de taux, une commission peut déterminer des taux qui procureront un "juste taux de rémunération sur la moyenne pendant les quelques années qui vont suivre et pas nécessairement pour les douze mois suivants. Les fluctuations secondaires à l'entour de ce chiffre, à moins qu'on s'attende à ce qu'elles se maintiennent ou croissent avec le temps, pourront se changer complètement plus tard."

La Commission, disait l'avocat, avait eu l'occasion d'énoncer le même principe en des termes quelque peu différents dans sa décision du 24 octobre 1952, portant sur une demande de la *Railway Association of Canada*, du Pacifique-Canadien et du National-Canadien (69 C.R.T.C. 248, page 255), comme suit:

"Dans les précédents cas de taux, la Commission a toujours cherché à rendre des décisions qui visaient non seulement les exigences des chemins de fer au moment de la demande, mais qui prévaudraient du moins jusqu'à ce que la situation se soit détériorée à un point tel que le maintien des taux existants se révèle visiblement inéquitable. On a clairement reconnu la nécessité de fixer des taux qui auront cours pendant au moins une période raisonnable de temps".

Dans ce cas, disait l'avocat, la Commission traitait d'une situation où les bénéfices étaient plus bas que le niveau permis fixé par la Commission et suffisamment bas pour exiger un changement de la structure tarifaire, mais la même chose s'appliquerait aux bénéfices au-dessus du niveau permis, mais pas suffisamment au-dessus pour exiger un tel changement dans la structure tarifaire.

L'avocat remarquait qu'on avait été préoccupé que la Commission puisse déterminer un niveau de bénéfices juste et raisonnable pour la compagnie, car cela pourrait être gênant pour la Commission en d'autres instances. À ce propos, la décision de la Cour suprême du Canada dans le cas de la *British Columbia Electric Railway Company limited contre la Public Utilities Commission de la Colombie-Britannique*, (1960 C.C.R. 837), a fait l'objet d'une mention. L'avocat disait que la préoccupation exprimée ne le surprenait pas, mais il croyait qu'il y avait une différence fondamentale entre la procédure actuelle devant la Commission et la question à l'étude dans la cause soumise à la Cour suprême du Canada. En ce cas là, la question que la Cour devait traiter était une décision de la Commission que M. le juge Locke (à la page 845 du rapport de la Cour suprême), a interprétée comme une décision que:

"... à moins que quelques changements dans les circonstances financières et du marché ne convainquent la Commission qu'on doive appliquer un taux différent, celle-ci appliquerait le taux de 6.5 p. 100 sur la base tarifaire, comme taux de rémunération juste et raisonnable pour la compagnie".

Personne, disait l'avocat, n'a demandé une décision semblable dans la présente instance. Il ne doutait pas que ni la compagnie ni la Commission n'avaient jamais envisagé une décision en de semblables termes, et personne n'avait demandé à la Commission de dire qu'elle appliquerait un taux de 7 p. 100 dans toutes les procédures de la sorte jusqu'à ce qu'elle change sa façon de voir.

Le dernier paragraphe de la page 855 et le premier paragraphe de la page 856 du rapport de la Cour suprême ont énoncé les normes statutaires qui régissent de la Commission de la Colombie-Britannique lorsqu'elle fixe les tarifs. Ce sont les suivants:

- "(i) La protection du public contre des tarifs excessifs qui dépassent un prix juste et raisonnable pour les services de la nature et de la qualité qu'offre le service public; et
- (ii) Assurer au service public une rémunération juste et raisonnable sur la valeur estimative des biens qu'il utilise ou qu'il a acquis prudemment et raisonnablement pour dispenser le service".

L'avocat disait que si l'on mettait de côté la question de la valeur estimative que l'on attachait à de telles définitions statutaires, les normes de ce statut, suivant sa déclaration, s'appliquaient également à la procédure actuelle. Il a

déclaré qu'à l'occasion, la Commission exprimerait une décision avec autant de clarté que celle de la *British Columbia Commission*. Si la Commission arrivait à une conclusion quant à la nature d'un bénéfice raisonnable, il ne croyait pas que celle-ci se préoccuperait d'être engagée ou non dans les procédures suivantes. Cependant, la Commission n'avait pas à envisager une telle situation dans le cas actuel.

L'avocat a admis que le taux de 6.5 p. 100 sur la base tarifaire avait été déterminé en 1947 par la Commission de la Colombie-Britannique, mais il a déclaré que la Cour suprême du Canada en avait tiré la conclusion que la Commission appliquerait ce taux tant que des conditions différentes ne nécessiteraient pas son changement; la Commission n'a pas changé de taux et ne l'a pas appliqué et pour cette raison la Cour suprême a décidé que la Commission était liée par sa propre conclusion. Ceci, selon l'avocat, n'était pas la situation devant la Commission.

Pour terminer, l'avocat a fait mention de la déclaration qu'il avait faite à l'ouverture des audiences (voir section 3 a) (1) ci-dessus), et l'a citée en entier. Il se disait convaincu que la décision de la Commission concernant la base sur laquelle on pourrait déterminer le niveau autorisé de bénéfices, pourrait être énoncée en termes qui éviteraient les implications que l'on trouve dans la cause de la *British Columbia Electric*. Dans le cas où la Commission déciderait, comme il a déclaré qu'elle devrait, que le taux de rendement du capital global présenté par la compagnie était un chiffre juste et raisonnable qu'on devrait atteindre dans un futur rapproché, la Commission devrait accompagner une telle décision d'une déclaration des intentions de la Compagnie, comme on trouve dans le dossier des délibérations actuelles, de ne pas utiliser désormais une telle décision pour élever son niveau de tarifs. Il y avait une autre solution à cet égard, qui avait plu à la *Federal Communications Commission* des États-Unis, selon laquelle la Commission éviterait tout engagement déterminé concernant un chiffre précis pour le niveau autorisé de bénéfices. Ici, l'avocat avait présent à l'esprit la citation antérieure tirée de l'avis public 60279 de cette Commission concernant le niveau de gains de l'A.T. & T., (voir la page 95 de cette décision, section 3 a) (8) ci-dessus), où la Commission avait trouvé que les bénéfices prévus par elle proviendraient des nouveaux tarifs et ne seraient pas "à la limite suprême de la marge permise."

Si cela dissipait les craintes exprimées, l'avocat disait qu'il suggérerait à la Commission que ses décisions pourraient bien être: a) que le rendement du capital global de la compagnie en 1964, ne dépassait pas un niveau juste et raisonnable: et b) qu'un tel rendement pour l'année 1964 n'était pas à la limite supérieure de la marge permise.

b) En faveur de la Industrial Wire and Cable Company Limited:**(1) Les relations de la compagnie Bell avec la Northern Electric Company Limited:**

De l'avis de l'avocat de la *Industrial Wire and Cable Company Limited*, la thèse de l'avocat de Bell dans la mesure où elle concernait le cas de l'*Industrial Wire* quant aux relations des compagnies *Bell* et *Northern*, était que la Commission ne devrait pas tenir compte de tout le témoignage présenté par la *Industrial Wire* surtout à cause de quatre raisons. C'était: a) parce qu'il y avait un certain nombre de préjugés dans les déclarations des témoins de l'*Industrial Wire*, (mais c'était plutôt une conclusion qu'une déclaration directe, disait l'avocat de l'*Industrial Wire*); b) que M. Thatcher était imbu de l'expérience américaine; c) que M. Simonton n'avait pas d'expérience en matière de réglementation tarifaire; et d) que ces deux témoins rendaient un témoignage en faveur d'un concurrent de la *Northern*.

Quant au premier point, l'avocat a expliqué que MM. Thatcher et Simonton étaient des spécialistes qui comparaissaient devant la Commission pour la faire profiter de leurs connaissances et de leur expérience. Ils ont subi un interrogatoire habile et sévère, selon l'avocat, et aucun d'eux n'a été ébranlé dans son témoignage, surtout dans son opinion fondamentale suivant laquelle, pour comprendre convenablement les relations des compagnies *Bell* et *Northern* et pour déterminer si les prix de *Northern* étaient raisonnables pour Bell, il faudrait examiner les frais de *Northern*. Ces hommes, a dit l'avocat, n'avaient rien à gagner en rendant un témoignage étranger à leurs convictions et opinions honnêtes, basées sur leur expérience et leurs connaissances dans leur domaines respectifs. Le cas de la compagnie Bell, d'un autre côté, se basait sur le témoignage de ses propres employés: elle n'a pas invité un seul témoin expert-comptable et aucun employé de la compagnie *Northern* pour expliquer s'il était désirable ou non de fournir des renseignements sur les frais du point de vue de *Northern*. De plus, on n'a appelé aucun expert indépendant pour différer d'opinion avec M. Thatcher ou M. Simonton.

Sur le second point, l'avocat a fait observer que les États-Unis ont été aux prises avec de semblables problèmes pendant bien des années et qu'il y a une jurisprudence américaine abondante de haute valeur probative dans ce domaine. Quant à la suggestion que M. Thatcher était imbu de l'expérience américaine, l'avocat a fait remarquer que la compagnie Bell s'était appuyée sur le témoignage de M. Morton venant de la même université que M. Thatcher et a fait ressortir que M. Morton avait déclaré dans son témoignage que les principes émis par la Cour suprême des États-Unis pouvaient aussi s'appliquer au Canada. Si la compagnie Bell pouvait se baser sur l'expérience américaine, il n'était pas trop recherché de permettre la même chose à ceux qui s'opposaient à *Bell*.

Quant à M. Simonton, il avait admis franchement dans son témoignage qu'il comparaisait devant la Commission en qualité de comptable agréé et non pas comme expert tarifaire. En tant que comptable, M. Simonton a été étonné que la compagnie Bell n'ait pas su ou n'ait pas recherché des renseignements sur les frais de sa filiale, la *Northern*. On n'a pas contredit son témoignage selon lequel il était courant dans les compagnies publiques de posséder cette information. Si c'était la manière de faire dans les industries non réglementées, disait l'avocat, ce devrait sûrement être le cas dans une compagnie réglementée dont les méthodes d'affaires devraient être incontestées.

En ce qui concerne le dernier point, a dit l'avocat, on a admis quel'*Industrial Wire* était une concurrente de *Northern*. Tandis que l'avocat-conseil de la compagnie Bell avait fourni volontairement l'information que *Northern* ne faisait que \$13 millions de ventes dans un domaine où elle se trouvait en concurrence avec l'*Industrial Wire*, celle-ci avait un total de ventes de quelque \$500 millions et distribuait ses produits par l'intermédiaire d'au moins 250 distributeurs d'appareils électriques indépendants au Canada, tandis que *Northern*, dans son domaine, faisait sa propre distribution et avait des ventes d'environ \$75 millions. *Industrial* était une compagnie canadienne relativement petite dont les actions détenues par les étrangers représentaient maintenant un pourcentage moindre que celui de la compagnie Bell.

L'avocat disait qu'on avait fait une déclaration suivant laquelle *Industrial* ne demandait des renseignements sur le coût que pour des raisons de concurrence. C'était inexact, la connaissance du taux de rendement de *Northern* sur les catégories générales de produits, comme *Industrial* l'avait demandé, n'était d'aucun secours à *Industrial* sur le plan de la concurrence, parce qu'il serait impossible de déterminer le rendement de *Northern* sur un sujet particulier, avec lequel *Industrial* pourrait être en concurrence d'après le taux de rendement sur des catégories générales de produits comprenant beaucoup d'articles. Suivant la déclaration de l'avocat, le taux de rendement sur les catégories générales de produits aiderait surtout la Commission à déterminer si la participation de *Northern* dans les domaines étrangers à la compagnie Bell serait vraiment avantageuse à Bell. C'était la seule manière par laquelle la compagnie Bell pouvait déterminer si oui ou non les activités étrangères à Bell de *Northern* étaient un épuisement financier, ou s'il était prudent d'investir tant en des activités si étrangères à l'industrie du téléphone. M. Thatcher avait fourni un témoignage concernant le taux de rendement permis de l'industrie étrangère à Bell, disait l'avocat, *Industrial* ne se préoccupait pas de savoir si le taux de rendement était réduit par la Commission. Cependant, *Industrial* croyait que lorsque l'information aurait été obtenue et que les chiffres des frais auraient été analysés, on trouverait que le rendement de *Northern* dans les transactions

autres qu'avec Bell serait bas plutôt que haut et que le rendement sur les affaires avec la compagnie Bell serait élevé en proportion.

L'avocat de Bell avait aussi affirmé que la Commission ne devrait pas accepter la suggestion de M. Van Scoyoc suivant laquelle on devrait inclure les bénéfices de *Northern* dans le revenu consolidé de la compagnie Bell, mais il était évident que M. Van Scoyoc n'avancait cette idée qu'à titre de solution de rechange. M. Van Scoyoc, disait l'avocat de *Industrial*, croyait vraiment que, tout d'abord et surtout, on devrait examiner les frais de *Northern*, mais qu'en l'absence de renseignements sur les frais il avait suggéré cette possibilité.

L'avocat de Bell avait aussi affirmé que *Industrial* n'avait pu établir par un seul exemple que les prix de *Northern* étaient excessifs. L'avocat de *Industrial* a dit qu'il supposait que le prix mentionné était celui demandé par *Northern* à Bell, mais il disait que, sans connaître les frais de *Northern*, il serait impossible de prouver qu'un prix était excessif et, pour cette raison, la Commission devrait examiner les frais de *Northern*.

L'avocat de *Industrial* disait que son premier argument traiterait de deux points principaux: a) les prix que *Northern* demandait à la compagnie Bell étaient-ils raisonnables et, dans le cas contraire, quelles conséquences en résulterait-il pour la compagnie Bell et ses abonnés? et b) l'investissement de la Bell dans *Northern* était-il avantageux à tous points de vue et dans le meilleur intérêt des abonnés de la compagnie Bell?

Traitant en premier de la question des prix, l'avocat a dit qu'il aimerait consulter quelques autorités sur ce point. Il a cité ce qui suit de la décision de la Commission sur la cause du tarif de la compagnie Bell en 1958 (76 C.R.T.C. 267, page 295):

"D'après le témoignage la Commission trouve que cette fois l'investissement de Bell dans la compagnie *Northern Electric* n'est pas de fait dommageable aux intérêts des clients de la *Bell Telephone* et, de plus, que les prix que Bell a payés à *Northern Electric* étaient aussi bas ou plus bas que les prix ordinaires.

On ne doit pas interpréter cette déclaration dans le sens que la Commission estime sa juridiction se limiter aux deux points précis mentionnés. Il est vrai que la Commission n'a pas de juridiction directe pour exiger que *Northern Electric* agisse ou n'agisse pas de telle ou telle manière, par ex.; exiger d'elle le paiement de certains dividendes. Mais la Commission estime qu'en exerçant sa tâche déterminer des taux justes et raisonnables, elle a le droit de tenir compte de tous les facteurs importants."

En ce qui concerne la juridiction de la Commission, l'avocat a cité le passage suivant du plaidoyer de M. J.L. O'Brien, avocat-conseil de la compagnie Bell:

“En ce qui concerne les considérations que la Commission doit se rappeler pour fixer des taux justes et raisonnables, cependant, je suis d'avis qu'il a été réglé depuis longtemps par notre plus haute Cour que les limitations des pouvoirs de la Commission à d'autres égards ne s'appliquent pas ici. Dans ma thèse, la Commission n'est pas limitée en aucune façon dans les questions qu'elle peut étudier en fixant un niveau général de taux justes et raisonnables. La Commission a exposé elle-même les limitations dont elle était l'objet concernant les taux individuels, mais, suivant ma thèse, en fixant un niveau général de taux justes et raisonnables la juridiction de la Commission est libre”.

De telles questions, disait l'avocat-conseil de l'*Industrial* ont été portées à l'attention de la Cour suprême des États-Unis dès les années 30. Le cas d'espèce faisant autorité, la pierre angulaire sur laquelle une législation tarifaire ultérieure se basera et de laquelle on tirera des statuts connexes, a été le cas *Smith contre Illinois Bell Telephone Company*, (282 U.S. Reports, page 133). Dans ce cas, a dit l'avocat, *Western Electric* fournissait presque tout le matériel de *Illinois Bell*, toutes les deux *Illinois Bell* et *Western Electric* étant des filiales de l'A.T. & T. A la page 152 du rapport, le juge Hughes faisait la déclaration suivante:

“Dans le registre de ce procès, la cour concluait que la ville n'avait pu prouver, comme elle le prétendait, que ces prix étaient exorbitants. La cour disait que pendant les quatorze dernières années, à ce qu'il semble, le bénéfice moyen de la *Western Electric Company* sur son exploitation totale n'avait pas excédé sept pour cent et jamais plus de dix pour cent. La fait a une valeur probante, mais la conclusion ne va pas assez loin. La *Western Electric Company* non seulement fabriquait des appareils pour les détenteurs de permis du réseau Bell, mais encore elle était engagée en d'autres grandes activités et on ne peut pas simplement supposer ou conjecturer que les bénéfices nets sur l'exploitation entière représentent les bénéfices nets des ventes aux détenteurs de permis de la compagnie Bell en général ou de celles à l'*Illinois Company*”.

L'avocat a fait remarquer sur ce point que la *Western Electric* était de fait engagée sur une large échelle en des opérations financières étrangères à celles de la compagnie Bell au moment de ce procès. Puis il a continué la citation:

“On ne répond pas non plus à l'argument des appelants par une simple comparaison des prix que la *Western Electric Company* avait exigés de l'*Illinois Company* avec les prix plus élevés que d'autres manufacturiers ont demandés pour un matériel semblable, ou que la *Western Electric Company* a exigés de compagnies de téléphone indépendantes. Le point en litige des appelants est que la *Western Electric Company*, par l'intermédiaire

re de l'organisation et du contrôle de l'*American Company*, occupait une situation privilégiée comportant des avantages spéciaux relativement à la fabrication et à la vente de matériel aux détenteurs de permis du réseau Bell, y compris l'*Illinois Company*, c'est-à-dire, qu'elle était en pratique le département manufacturier de ce réseau, et la question porte sur les bénéfices nets que la *Western Electric Company* a réalisés dans ce département et sur le montant pour lequel ces bénéfices sont inscrits éventuellement au budget des dépenses sur lequel repose une accusation de confiscation. Nous croyons qu'on devrait faire des constatations sur ce point."

L'avocat a fait remarquer que la Commission, dans le cas cité, avait approuvé les prix parce qu'on lui avait montré des chiffres comparatifs qui semblaient exacts, mais la Cour suprême l'a renvoyé en disant qu'elle ferait faire des recherches sur les frais. Le rapport de la Cour suprême continuait ainsi à la page 157:

"Par suite des recherches, les deux commissions de l'état et de la Cour ne voient aucune raison de douter que la compagnie américaine avait rendu des services appréciables, mais la cour statutaire devrait procéder à des constatations détaillées concernant les frais de ces services pour la compagnie américaine et le montant raisonnable qu'on devrait allouer à cet égard aux dépenses d'exploitation réalisées par la compagnie de l'*Illinois* pour ses affaires à l'intérieur de l'État dans les années visées par le décret".

L'avocat a remarqué que les appelants dans ce cas affrontaient le même argument auquel lui-même aurait eu à faire face: à savoir comment la Commission pouvait examiner les frais de *Western* quand *Western* ne comparaissait pas dans cette cause, ou comment la Commission pouvait-elle examiner les frais de *Northern* quand celle-ci ne comparaissait pas devant elle au cours de ces audiences. Le rapport traitait ainsi cette question à la page 143:

"Sur ces faits, la ville a attaqué la position financière de l'*Illinois Company* en tant que réelle demanderesse dans la cause. La Cour n'a pas tenu compte de cette contestation, estimant que le fait, pour la compagnie américaine de posséder des actions et son droit de regard sur l'*Illinois Company* n'avaient pas détruit l'identité sociale distincte de cette dernière. La cour a fait ressortir que l'ordre de la Commission était dirigé contre l'*Illinois Company* et qu'on la considérait comme une société commerciale, dans le but de l'obliger à établir des taux prescrits pour le service rendu par l'exploitation de la propriété sur laquelle elle avait un droit juridique. Il ne semblait y avoir aucune raison d'attaquer cette décision. Le fait que les relations de l'*Illinois Company* avec la compagnie américaine puissent réclamer un examen minutieux, lors de l'étude de certaines questions qui portent sur la validité de l'ordre de taux, ne peut pas éclipser la base essen-

tielle de cet ordre, c'est-à-dire, que la Commission imposait ses exigences à une organisation sociale engagée dans un service public à l'intérieur d'un état et, comme telle, soumise à un exercice valide de l'autorité de la Commission."

L'avocat disait que l'affirmation de la Cour dans la citation précédente était que "nous disons à *Illinois* d'obtenir des renseignements et *Illinois* naturellement peut se les procurer. Elle n'est qu'une filiale de l'A.T. & T., mais écartons les entités corporatives. C'est un tout en réalité, et vous pouvez aller à l'A.T. & T. et obtenir l'information et nous voulons la voir". De ce cas, disait l'avocat, ont tiré leur origine plusieurs statuts connexes et, comme M. Thatcher l'avait dit, il y avait des statuts dans certains états, mais pas dans d'autres, mais tous les statuts découlants de cette cause soutiennent qu'on doit obtenir cette information, même là où il n'y avait pas de statut soumettant l'industrie non réglementée à la juridiction d'une commission particulière.

L'avocat-conseil a dit que le cas suivant était une décision de la Cour suprême des États-Unis, *Western Distributing Company contre la Public Service Commission*, (285 U.S. Reports, page 119). Bien que la cause porte sur le gaz, les principes ont été appliqués dans toute l'industrie du service public, a dit l'avocat. Voici sa citation:

"L'appelant affirme que le tarif exigé par la compagnie du pipe-line pour le gaz livrée à la porte de la ville est un tarif imposé entre États et n'est pas l'objet de règlement d'aucune autorité d'Etat. Les intimés ont concédé la justesse de cette affirmation. Mais l'appelant soutient que toute recherche de la commission d'État sur le caractère raisonnable de cette accusation équivaut à une atteinte directe à un règlement, à un effort de la part de l'État pour circonvenir l'autorité fédérale suprême au sujet du commerce entre les États et par suite à une tentative de faire, par des moyens détournés, ce qui est défendu par la constitution fédérale. Les intimés se défendent de vouloir contrôler les tarifs de service entre les États, mais ils disent que, puisque la fonction de la Commission est de déterminer des tarifs raisonnables pour le service entre les États que rendait l'appelant dans la ville d'Eldorado, il faut nécessairement déterminer si le prix du gaz distribué est juste et raisonnable. A cette fin la Commission insiste sur le fait qu'elle est habilitée à mener toute enquête qui la satisfera sur ce point. Pour ce qui est de l'affiliation de l'acheteur et du vendeur et de l'unité de contrôle ainsi engendrée, nous pensons que la situation des intimés est solide et que la Cour avait raison en estimant que si l'appelant désirait une augmentation de tarif il devait offrir un témoignage satisfaisant concernant tous les frais qui entraient dans la fixation d'un tarif raisonnable. Ceux qui contrôlaient la situation avaient combiné les transports des denrées

entre les États avec leur distribution locale, ce qui revient en pratique à une seule organisation. Il y a une absence de négociation à distance entre les deux entités impliquées et de tous les éléments qui concourent à fixer la valeur marchande. Il existe une occasion pour qu'un membre de l'association exige d'un autre un tarif déraisonnable pour le gaz fourni et fasse ainsi d'une charge injuste en partie la base du tarif de détail. L'autorité d'État dont on met les pouvoirs en cause pour fixer un tarif raisonnable a certainement le droit de savoir si l'on a tiré avantage de la situation pour placer un fardeau déraisonnable sur la compagnie de distribution, et le simple fait que ce taux soit destiné à un service entre États ne force pas la Commission à renoncer à toute enquête sur sa loyauté. Toute autre norme favoriserait la plus grave injustice et lierait l'autorité d'État de telle manière qu'elle ne pourrait pas réglementer d'une façon efficace le service entre États qui, sans contredit, est de son ressort. Les principes applicables dans une enquête tarifaire, là où existent de semblables relations sociales, ont été énoncés récemment dans la cause *Smith contre Illinois Bell Telephone Co.*, 282 U.S. 133, 152-153, et il serait inutile de répéter ou d'élaborer ce qui y a été dit".

L'avocat a continué de citer ladite cause à partir du bas de la page 125, comme suit:

"L'appelant fait allusion au fait que dans sa demande en justice se trouvent un certain nombre d'allégations que les intimés n'ont pas repoussées. En quelques mots, il reproche à la compagnie de ne pas posséder ou produire de gaz naturel; que la seule source d'approvisionnement de la ville d'Eldorado soit la conduite principale de la *Cities Service Gas Company*; qu'aucun approvisionnement à un prix inférieur ne puisse être obtenu de toute autre source; que le même taux soit exigé des autres compagnies de distribution selon les principes de la *Cities Service Gas Company*, et qu'un autre pipe-line indépendant l'ait exigé d'une autre ville; que l'on ait fait un vain effort pour trouver du gaz local accessible à Eldorado; et que l'appelant ait essayé d'obtenir un taux plus bas de la *Cities Service Gas Company* mais n'a pu y parvenir. On met de l'avant que ces allégations non contredites constituent, lorsqu'on les rapproche des faits exposés auparavant, une affaire qui, de prime abord, paraît bien fondée à cause du caractère raisonnable du taux demandé. Cela pourrait bien être vrai, si ce n'était pas pour le fait de l'unité de propriété et de contrôle du pipe-line et du réseau de distribution. Une attestation de négociation et d'effort pour obtenir une réduction du taux de gros signifie peu de chose à la lumière du fait que les négociateurs agissent tous les deux dans le même intérêt, celui de la société de porte-feuilles qui contrôle les deux. Tous les faits ainsi allégués dans

les débats seraient beaucoup plus persuasifs en ce qui concerne l'à-propos du taux si les parties étaient indépendantes et traitaient à distance. Cependant, lorsqu'elles ne constituent qu'un seul intérêt et comprennent le placement de tout le capital en ce qui est en effet une seule entreprise, les éléments de double profit et du caractère raisonnable des frais entre les compagnies doivent nécessairement être le sujet d'enquêtes et d'examens avant qu'on puisse répondre d'une façon satisfaisante à la question concernant la légalité du taux de détail basé là-dessus".

.....

"La thèse est faite que les preuves demandées par la Commission entraîneront une évaluation extensive et inutile des biens de la compagnie du pipe-line et une analyse de ses affaires et que cette tâche ne devrait pas être mise sur les épaules de l'appelant. Qu'il en soit ainsi, nous n'avons pas à le trancher maintenant. Il suffit de dire que par suite des relations des parties et du pouvoir implicite de déterminer et de maintenir arbitrairement les frais relatifs à la compagnie de distribution, qui ne représentent pas la valeur réelle du service rendu, l'administration d'État a droit à ce qu'on reconnaisse en toute justice le caractère raisonnable de ces frais, bien que ceci puisse entraîner un témoignage qui ne serait pas requis dans le cas de parties traitant à distance et sur le marché général et hors banque, sujet aux garanties usuelles du marchandage et de la concurrence."

L'avocat a fait mention d'un certain nombre d'autres causes, qui sont: *Lone Star Gas Company contre Federal Power Commission*, (304 U.S. Reports, page 224, surtout aux pages 236 et 237); *Colorado Interstate Gas Company contre Federal Power Commission*, à la Cour suprême des États-Unis, (324 U.S. Reports, page 581 et 609); et *Polar Electric Company contre Pennsylvania (Public Utility Commission)* (137 Pennsylvania Superior Court Reports, page 325, surtout à la page 373). Il a fait les citations suivantes, à propos de ces causes:

Colorado Interstate, page 609:

"Je suppose qu'une commission est libre de recueillir des témoignages sur les conditions et les événements tout à fait en dehors de sa juridiction régulatrice là où ils semblent affecter le coût de ce qui doit servir à déterminer le prix. A mon avis, c'est tout ce qui a été fait ici".

Polar Electric, page 373:

"Les frais provenant des relations entre les compagnies affiliées doivent être examinés avec soin...; et si font défaut les données et renseignements suivant lesquels la Commission peut s'assurer du caractère raisonnable et opportun des services rendus et des frais exigés par les compagnies auxiliaires pour ces services, l'indemnité est refusée à bon droit".

Polar Electric, page 374:

“Le désir de la direction d’un service public mis en relief par diverses méthodes tendant à assurer le plus haut degré de bénéfices possibles aux derniers propriétaires est incompatible avec le caractère semi-public du service public que gère la direction. Il sensuit donc que la Commission doit examiner soigneusement les frais exigés par les filiales, car le gonflement imposés à la compagnie exploitante peut être un moyen d’augmenter injustement le revenu allouable et d’élever le coût du service public au consommateur, ainsi qu’une source injustifiée de bénéfices pour la dernière société de portefeuille”.

L’avocat s’est ensuite reporté à une décision récente de la Cour suprême de la Californie, en relation avec un appel interjeté par la *Pacific Telephone and Telegraph Company*, et autres, d’une décision de la *Public Utilities Commission* de l’État de Californie, (la dernière décision a été rapportée dans le 53 P.U.R., 3^e, page 513). Dans cette cause, disait l’avocat, la Commission de Californie demandait, depuis 50 ans, les frais des sociétés affiliées, mais c’était la première fois que le cas était soumis à la Cour suprême de l’État. On avait soumis une statistique comparative étendue dans la cause entendue devant la Commission de la Californie; il a été aussi prouvé que la *Western* avait travaillé d’une façon continue et avec succès à réduire les frais et à transmettre les économies aux compagnies exploitantes de Bell; et le rapport montrait que la *Pacific* était libre d’acheter à d’autres sources, mais que les frais d’approvisionnement par l’intermédiaire de la *Western* étaient si avantageux dans presque tous les cas que la *Pacific* ne pouvait qu’accepter les frais avantageux de la *Western*. On a soumis une liste de prix comparés à ceux d’autres manufacturiers et on a décrit les avantages évidents que la *Western* avait sur ces autres manufacturiers. En de telles circonstances, est-il dit, il ne pouvait pas y avoir de comparaisons réelles et valides avec d’autres compagnies parce qu’il n’y avait rien à quoi comparer les activités de la *Western*.

L’avocat a cité ce qui suit de la décision miméographiée de la Cour suprême de la Californie, commençant à la page 36:

“La *Pacific* ne conteste rien des faits réels exposés par la Commission, comme on l’a montré plus haut, mais néanmoins affirme que la décision de la Commission omet par erreur d’inclure une décision portant sur un point de fait litigieux, c’est-à-dire sur le caractère raisonnable ou prudent des achats que la *Pacific* effectuait auprès de la *Western* et sur le paiement des prix demandés, et que les témoignages ont forcé une décision en faveur de la *Pacific*. Cette contestation est sans fondement. La décision a révélé que la compagnie *Pacific* n’a pas présenté et apparemment ne pouvait pas présenter des comparaisons convaincantes entre les prix de la *Western* et ceux des

autres manufacturiers, ou un autre témoignage qui établirait avec certitude le caractère raisonnable des prix payés par la compagnie *Pacific* et la *Western*, sa filiale contrôlée. Les cas que la *Pacific* citait comprenaient d'autres exposés et d'autres décisions en d'autres contextes et naturellement ne laissent pas entendre qu'un service public a droit à des décisions favorables comme question de droit en l'absence d'une preuve indiscutée sur le point. La détermination de la Commission dans le présent cas suivant lequel la *Western* n'a pas droit à un plus grand profit sur ses ventes à la *Pacific*, que la *Pacific* peut gagner dans son exploitation et que la compagnie américaine ne devrait pas avoir la permission, par l'intermédiaire social de la *Western*, d'imposer aux contribuables de la *Pacific* le fardeau de procurer un bénéfice plus grand, se base non seulement sur les constatations très poussées de la Commission sur le sujet, mais aussi sur les méthodes et le principe que la Commission avait suivis jusqu'ici".

L'avocat a fait observer que, malgré les témoignages irrésistibles selon lesquels les paiements effectués par la *Western* étaient convenables et relatifs, les frais ont été examinés.

Une autre cause récente, a dit l'avocat, a été une décision de la Division d'appel de la Cour suprême de New York, *General "Telephone Company of Upstate New York"*, contre *James A. Lundy et autres, constituant la "New York Public Service Commission"*, (57 P.U.R. 3^e, page 328). Cette décision était datée du 2 février 1965, et l'avocat en a cité le passage suivant:

"AE, (c'est-à-dire la *Automatic Electric Company* et sa filiale de vente qui lui appartient totalement, la *Automatic Electric Sales Corporation*), depuis son affiliation au système général, a gagné sur la partie de son capital investi que représentaient des actions ordinaires et un surplus plus de 19 p. 100 dans ses deux dernières bonnes années, plus 30 p. 100 dans ses deux meilleures années, et de 25 à 28 p. 100 dans les autres années. En se basant sur le même calcul, les gains des compagnies Leich, après l'affiliation, et avant leur fusion avec AE en 1962, passaient de plus de 20 p. 100 à des sommets de plus de 50 p. 100 en deux ans, la moyenne pondérée pour la période étant de 43 p. 100".

En ce cas, disait l'avocat, on a demandé des témoignages pour montrer le caractère raisonnable des prix et telles a été l'opinion de la Cour:

"Nous ne pouvons pas dire que la commission a agi d'une façon arbitraire ou extravagante lorsqu'elle découvrait que ces très grands profits indiquaient des prix très gonflés qui auraient pû être sensiblement réduits. Dans cette situation, la commission n'était pas tenue naturellement de donner un effet directeur à la preuve suivant laquelle les prix payés n'étaient pas plus élevés que ceux que les filiales demandaient aux compagnies non affiliées ou de ceux que d'autres compagnies manufacturières et de ventes

exigeaient de leurs clients''.

.....
"Si l'enquête sur les bénéfices et l'examen de ceux-ci, reconnus dans le cas *Smith* (ci-dessus) et aussi dans le cas de la *Western* (ci-dessus) nécessaire et opportune, révèle le côté excessif des frais entre les compagnies, malgré les frais comparables chez d'autres, le droit corollaire de la Commission de faire l'ajustement qui convient est de soi évident, à moins que ce droit d'examen ne soit l'équivalent d'un exercice inutile. La question n'est pas le droit d'un fournisseur de demander un prix spécial ou le droit du client de le payer, mais plutôt le droit de la Commission de faire valoir l'intérêt public suprême en un taux qui ne reflètera pas le gonflement des frais. Il semble trop clair pour qu'on en discute que la détermination de la commission est ainsi conforme à l'exercice de ses propres fonctions et qu'elle ne consiste pas en la détermination d'un taux pour des services autres que les entreprises d'utilité publique; et nous trouvons la prétention du requérant à l'effet du contraire et sa confiance dans les autorités vraiment déplacées et dénuées de fondement".

L'avocat disait que la méthode américaine d'examiner les frais avait été dans le principe causée par l'absence de négociations à distance et les cas cités soulignaient que la méthode à utiliser pour découvrir si les frais exigés étaient raisonnables était d'examiner les frais pour arriver à une bonne conclusion. La pensée moderne sur cette question était qu'on ne pouvait guère se fier à un mode de relation autre que celui de *Northern* et Bell, pour déterminer si les prix étaient raisonnables. S'il était vrai que les diverses commissions américaines ne pouvaient pas ordonner à une filiale de fournir des renseignements, elles avaient cependant exprimé très clairement qu'elles n'hésitaient pas à ordonner à la compagnie réglementée d'obtenir d'elles cette information lorsqu'elle le pouvait.

En ce qui concerne le rapport de Touche, Ross, Bailey et Smart relativement aux prix de la compagnie Bell, (pièce n° B-52), l'avocat a remarqué que la compagnie Bell semblait y avoir grande confiance, bien que le responsable de la préparation du rapport n'ait pas été appelé comme témoin. M. Simonton a fait ressortir que les comparaisons de prix de ce rapport s'appliquant aux catégories de ventes de *Northern* ne représentant environ qu'un tiers des ventes de *Northern* aux clients généraux. La compagnie Bell concédait que, par suite du montant des ventes de *Northern* à Bell, les frais de *Northern* avaient été fortement réduits, mais on n'avait pas essayé d'établir que de telles réductions de frais avaient été passées à Bell. Il était vrai que Bell avait déclaré des réductions effectives de prix, mais aucun témoignage n'en a prouvé l'exactitude devant la Commission. A cause des avantages de volume, *Northern* pouvait encore réaliser des bénéfices

excessifs sur ses ventes à Bell même si les prix que *Northern* demandait à ses autres clients que la compagnie Bell étaient plus élevés; M. Thatcher avait souligné qu'il n'y avait pas de vrai marché de concurrence où *Northern* était astreinte à conserver de bas prix dans les ventes de matériel téléphonique en dehors de Bell.

L'avocat a fait remarquer qu'un examen de la pièce n° B-52 fournissait un bon exemple que *Northern* pouvait faire des bénéfices excessifs dans ses ventes à la compagnie Bell. Cette pièce à conviction a montré une différence d'environ 100 p. 100 entre les prix des appareils de téléphone que *Western Electric* avait vendus aux compagnies Bell des États-Unis et les prix des autres fournisseurs américains d'appareils de téléphone.

Ceci a fait ressortir la nécessité d'examiner les frais de fabrication de *Northern* pour déterminer quelle différence il y aurait entre les prix de *Northern* et les prix que demandaient les autres manufacturiers du Canada. La pièce n° B-51 se rapportait aux procédés utilisés pour établir si les prix étaient raisonnables, mais ces procédés étaient naturellement ceux d'usage courant chez les compagnies qui effectuaient les achats chez celles qui n'étaient pas affiliées et dont il était naturellement impossible d'obtenir le montant de frais. Ceci cependant, selon M. Thatcher, ne pouvait remplacer un examen approfondi des frais et dépenses de *Northern*.

En ce qui concerne le rapport Touche et Ross, disait l'avocat, le vérificateur avait eu confiance en une analyse des ventes que la compagnie Bell avait préparée. Selon l'opinion de l'avocat-conseil, les vérificateurs devraient faire leur propre analyse. De plus, il était significatif que nulle part dans le rapport ou dans le témoignage de Bell, il y avait une déclaration selon laquelle on avait demandé au vérificateur de ne comparer les prix que lorsque les conditions étaient semblables. Rien ne prouvait que les ventes d'exportation n'étaient pas faites en des conditions semblables à celles des ventes domestiques. Les ventes d'exportation avaient été exclues du rapport, mais même s'il était vrai que ces ventes n'étaient pas faites dans des "conditions semblables," la compagnie Bell n'obtenait pas nécessairement le meilleur prix lorsque *Northern* pouvait vendre à un prix plus bas sur le marché d'exportation et encore réaliser un bénéfice. Quelques articles avaient été exclus parce qu'ils n'avaient pas été fournis en quantité importante, mais il n'y avait pas de preuve pour établir devant la Commission ce qu'on considérerait être une quantité importante. Selon l'avocat, on a caché complètement à la Commission la nature des transactions de *Northern* avec d'autres clients que ceux de Bell. Certainement, a-t-il dit, il faudrait établir d'une façon ou d'une autre que c'était un marché de libre concurrence et que d'autres compagnies, de fait, pouvaient vendre en concurrence avec *Northern* avant de pouvoir tenir pour véridique toute comparaison avec les prix de ces

compagnies. Il n'y avait nulle part de déclaration établissant que les bénéfices réalisés par *Northern* sur les ventes à Bell étaient raisonnables; le rapport Touche et Ross n'a pas dit que les prix, à son avis, étaient raisonnables, et il n'a pas établi si à son avis la méthode de comparaison était juste étant donné les circonstances des relations entre Bell et *Northern*.

Selon la thèse de l'avocat, une revision du témoignage de la compagnie Bell concernant *Northern* conduisait à la conclusion que la Commission devrait examiner minutieusement les relations entre Bell et *Northern*, et en particulier les prix que *Northern* avait demandés à Bell. Toutes les parties semblaient convenir que *Northern Electric* avait d'énormes avantages à cause de son volume de ventes et en particulier à cause de son association et de son contrat d'approvisionnement avec la compagnie Bell. De telles économies d'échelle auraient dû être utilisées à l'avantage de Bell et de ses abonnés et on devrait exiger que Bell établisse devant la Commission que cela a été fait. Cependant, sans l'examen des rapports de *Northern*, la Commission ne pouvait pas prendre de décision sur la réduction des prix demandés à Bell et sur l'importance de ces réductions.

L'avocat a déclaré que Bell n'avait invoqué aucun témoignage au sujet du sens que Bell et *Northern* attribuaient au terme "conditions semblables" utilisé dans le contrat d'approvisionnement; il était par conséquent impossible à la Commission de décider si le contrat était raisonnablement explicite à cet égard. Peut-être, avec quelque justification, Bell et *Northern* considéraient-ils que très peu de ventes avaient été faites en des conditions exactement semblables et, s'il en était ainsi, cette clause du contrat offrait peu de protection à Bell. Peut-être que les ventes d'exportation mentionnées n'avaient pas été faites en des conditions semblables, mais la Commission avait le droit d'en exiger la preuve.

L'avocat a remarqué que plusieurs témoins de la compagnie Bell avaient concédé qu'il serait utile de connaître les frais de *Northern* lorsqu'il s'agirait de déterminer si les prix que *Northern* demandait à Bell étaient justes et raisonnables. M. Inglis (témoin pour le rapport Touche et Ross et pour les comparaisons de prix), était d'avis que la connaissance des frais réels de *Northern* aiderait la Commission, bien qu'il n'ait pas pensé que c'était la fonction de la compagnie Bell de connaître les frais du manufacturier. M. Lester, (témoin pour les relations entre Bell et *Northern*), avait déclaré qu'il prévoyait que *Northern* examinerait ses frais lorsqu'elle étudierait des réductions de prix; il avait aussi déclaré, lorsque les frais unitaires ont baissé, que la compagnie Bell attendait une réduction de prix. M. Leadbetter (témoin pour le contrat d'approvisionnement), avait concédé que Bell avait accès aux frais de *Northern* en ce qui concerne la détermination du pourcentage à l'appendice A du contrat d'approvisionnement (Nota: l'appendice A traite des taux de rémunération des services de *Northern*,

comme agent acquéreur, magasinier, etc.). En même temps, il avait convenu qu'il serait utile à la Commission de disposer des chiffres relatifs aux frais lorsqu'il s'agirait de déterminer si les prix que *Northern* exigeait de Bell étaient raisonnables. M. Leadbetter avait précisément déclaré que la compagnie Bell avait accès aux dossiers de *Northern* pour examiner certains autres points conformément au contrat d'approvisionnement et que de tels dossiers étaient révisés régulièrement par un comité de Bell et de *Northern*.

Lorsque, disait l'avocat, les propres témoins de Bell convenaient qu'il était utile de connaître les frais de *Northern*, pour déterminer si les prix que *Northern* demandait à Bell étaient justes et raisonnables, et lorsque MM. Simonton, Thatcher et Van Scoyoc avaient déclaré qu'il était essentiel de connaître de tels frais, attitude qui s'accorde avec la pensée américaine, alors ceci devait persuader la Commission d'émettre une décision. L'avocat croyait que *Northern* possédait en toute probabilité de tels dossiers de frais et que, par suite, la tâche ne serait pas trop écrasante. M. Simonton avait témoigné qu'il ne faisait aucun doute pour lui que *Northern* possédait un système de frais bien organisé; il n'a pas fait l'objet d'un contre-interrogatoire à propos de cette déclaration et Bell n'a présenté aucune preuve pour la réfuter.

Selon la thèse de l'avocat, il était essentiel que la Commission examine les frais qu'entraînent pour *Northern* les services rendus à Bell, tel qu'exposés à l'appendice A du contrat d'approvisionnement. Un exemple de ce qui semblait être un prix excessif: les frais de 10.5 p. 100 sur les articles expédiés directement à Bell par des manufacturiers de l'extérieur sans aucun entreposage par *Northern*; il semble aussi que ces frais s'appliquaient même aux commandes répétées de stocks. De plus, il ne semblait pas y avoir d'instruction précise pour la classification de stocks spéciaux qui portaient un taux de 12.7 p. 100 plutôt que 10.5 p. 100. La Commission devrait donc examiner les frais de *Northern* pour se convaincre elle-même du caractère raisonnable des frais.

En ce qui concerne le témoignage de M. Thatcher, l'avocat a dit que le contre-interrogatoire de cet témoin portait en grande parties sur les mots "compagnie affiliée" et leurs différentes acceptions en différents contextes. En faisant cela, la compagnie Bell essayait d'établir une différence entre la situation de la Bell-*Northern* et celle de l'A.T. & T.-*Western Electric* situation à propos de laquelle les tribunaux et les commissions américains avaient forcé *Western* à fournir des rapports dispendieux. L'avocat de Bell avait affirmé qu'aux États-Unis, les bénéfices de la *Western Electric* ne sont pas remis à la compagnie exploitante, tandis que les bénéfices de *Northern* sont remis à Bell et que par suite les deux situations n'étaient pas comparables. L'avocat de *Industrial Wire*, cependant, alléguait que, dans la situation de la Bell-*Northern*, il était bien plus justifié d'examiner les frais de *Northern* que dans le cas de la *Smith* contre

Illinois Bell mentionné ci-dessus et à propos duquel les requérants avaient demandé un tel examen. Dans cette cause, la cour avait maintenu qu'il n'y avait pas de négociations à distance, même si les compagnies impliquées n'étaient pas en relations aussi étroites que Bell et *Northern*. Suivant l'opinion de l'avocat, la Commission devrait surtout tenir compte du fait que les cours américaines avaient traité le groupe de compagnies associées comme une entité, car on avait fondé cette proposition sur le cas *Western Distributing*, où on soutenait également qu'il n'y avait pas de négociation à distance. La cause récente devant la Cour suprême de New York, relativement à la *General Telephone Company of Upstate New York*, avait aussi rendu évident le principe primordial selon lequel les tarifs téléphoniques ne devraient pas réfléter des frais grossis.

L'avocat a remarqué que dans le passé la Commission avait toujours estimé que les prix devraient être raisonnables et a fait observer que les cas américains cités prévoyaient simplement une procédure pour s'assurer qu'ils étaient raisonnables. M. Simonton avait allégué dans son témoignage que les réductions de prix de *Northern* procurerait des avantages immédiats à Bell et à ses abonnés, mais que les méthodes de fixation de prix entre Bell et *Northern*, qui ont entraîné des bénéfices accrus pour *Northern*, ne profiteraient à la compagnie Bell et à ses abonnés que dans la mesure où de tels bénéfices seraient par suite versés en dividendes à Bell. M. Simonton avait aussi déclaré que les bénéfices réinvestis de *Northern* étaient fermement engagés dans les opérations financières de *Northern* et il ne voyait pas comment ils pourraient être payés à Bell. De futurs dividendes ne pourraient être payés à Bell que dans la mesure qu'en jugeraient les directeurs de *Northern*. Autrement dit, a dit l'avocat, *Industrial Wire* avait allégué que la Commission devait connaître les frais de *Northern* pour se convaincre, ainsi que le public, que les abonnés participaient pleinement aux avantages provenant des relations de *Northern*.

M. Thatcher, a dit l'avocat, avait fourni un certain nombre de raisons pour prouver la nécessité d'une commission régulatrice ayant pour tâche d'examiner les frais du fournisseur d'une filiale. Voici ces raisons: l'absence de marchandage; aucun prix de concurrence établi par une stricte concurrence; les prix relatifs n'offraient aucune preuve que les prix demandés par d'autres étaient raisonnables; et l'impossibilité de comparer les prix de *Northern* à cause des avantages de son grand volume de transactions et de ses relations avec Bell. Selon M. Thatcher, le mode d'allocation des frais employé par *Western Electric* États-Unis était une manière pratique d'étudier les relations entre Bell et *Northern*. L'expérience de *Western* dans ce domaine, selon l'avocat, pourrait être utilisée par *Northern* et, avec ses dossiers de frais existants, la tâche ne serait pas exorbitante.

MM. Thatcher et Simonton avaient tous les deux déclaré d'une façon énergique qu'à leur avis, la preuve alléguée par Bell était complètement insuffisante

pour déterminer si les prix que *Northern* demandait à Bell étaient raisonnables. En plus des raisons économiques alléguées par M. Thatcher, M. Simonton avait fait remarquer pourquoi le rapport Touche et Ross était insuffisant pour réaliser ce but. On pouvait faire des bénéfices excessifs sur les ventes à la compagnie Bell, tout en répondant ainsi aux exigences du contrat d'approvisionnement selon lesquelles les ventes à la compagnie Bell doivent s'effectuer à des prix aussi bas que ceux offerts aux clients les plus favorisés de *Northern* pour des matériaux et services semblables. Ceci a été montré graphiquement dans le cas de la Cour suprême de New York impliquant la *General Telephone*, cause où les bénéfices étaient élevés bien que le fournisseur vendait encore à un prix plus bas que les concurrents.

L'avocat alléguait qu'à la suite du témoignage devant la Commission, cette dernière ne pouvait plus décider si oui ou non *Northern* devrait demander à la compagnie Bell des prix réduits. La Commission devrait donc exiger de Bell des renseignements, dans la même ligne que ceux de la Compagnie *Western Electric*, et comprenant le prix de tous les produits, par catégories, ainsi que la rémunération des placements faits dans les principales catégories de produits. Ces renseignements devraient toucher séparément les ventes et les autres sources de revenus, les ventes à la Compagnie Bell et les ventes aux autres clients. Le classement en trois catégories principales de produits, appareils, outillage, câbles et fils métalliques, devrait être suffisant: mais une étude serait nécessaire pour savoir s'il ne devrait pas y avoir d'autres catégories de produits. L'avocat ne croit pas qu'une telle étude soit dispendieuse, compte tenu de la déclaration de M. Simonton au sujet de la comptabilité des prix de revient de la Compagnie *Northern*. Il déclara que le fait de prendre les allocations de prix de revient et de travailler avec les prix de la Compagnie *Northern*, serait suffisant pour les desseins du Conseil; il s'agirait d'une question de comptabilité plutôt que d'une étude détaillée des affaires de la compagnie. Se poserait, sans aucun doute, le problème de la vérification des allocations, mais l'avocat dit qu'il y avait des procédés de comptabilité très reconnus pour ce genre de travail. A son avis, il faudrait formuler certaines hypothèses et l'étude risquerait d'être incomplète, mais si le procédé adopté par la Compagnie *Northern* était vérifié point par point, le Conseil s'éviterait peut-être des difficultés techniques. Enfin, l'avocat ne croyait pas qu'un concurrent de la Compagnie *Northern* découvrirait grand chose en examinant attentivement les principales catégories de produits.

En ce qui concerne la question de savoir si la Compagnie Bell, et par la suite ses abonnés, tireraient avantage des bénéfices non distribués de la Compagnie *Northern*, s'ils étaient placés judicieusement dans le réseau téléphonique, l'avocat cita M. Simonton, selon qui les bénéfices non distribués de *Northern* avantageraient les actionnaires de la Compagnie Bell, à la condition de les

employer sagement et intelligemment, et qu'ils donnent un taux de rendement aussi élevé que le niveau de gains permis de la Compagnie Bell. L'avocat s'est montré favorable à cette idée, pourvu que la Commission sache quels étaient les gains réalisés par *Northern* avec la Compagnie Bell et avec les autres compagnies, car si le taux de rendement venant du commerce fait avec les Compagnies autres que la Compagnie Bell était inférieur au taux de rendement venant du commerce fait avec la Compagnie Bell, l'abonné serait défavorisé. En ce cas, l'abonné se trouverait à subventionner une entreprise non rentable et sans rapport avec l'industrie du téléphone. Dans la mesure où la Compagnie Bell a trop payé *Northern* pour ses produits et services, elle l'a fait au détriment de l'abonné. En remboursant le montant de rétribution excessive, l'abonné pourrait être dédommagé, mais pas entièrement, car il faudrait faire un ajustement pour les frais d'amortissement de la rétribution excessive. L'approximation modérée faite par l'avocat assurait ainsi à l'abonné que *Northern* lui demandait bien un taux juste, basé sur des prix raisonnables.

L'avocat déclara que, pour déterminer si les abonnés de la Compagnie Bell bénéficiaient des relations entre la Compagnie Bell et *Northern*, il fallait d'abord savoir si les prix demandés par *Northern* à la Compagnie Bell étaient raisonnables, et ceci, en examinant les revenus réalisés par *Northern* dans son commerce avec la Compagnie Bell; et savoir ensuite si le commerce de la *Northern* avec d'autres compagnies était profitable, et ceci, en examinant les profits dudit commerce. Selon l'avocat, le commerce avec les autres compagnies est peut-être des moins profitable, tout en étant une cause d'épuisement des bénéfices de *Northern*, bénéfices que les abonnés de la Compagnie Bell pourraient retirer.

À ce sujet, l'avocat remarqua que M. Lester, dans son témoignage sur la filiale de *Northern*, la Dominion Sound Equipment Limited, ne savait pas quelles étaient les activités de cette filiale bien qu'il soit un des vice-présidents de la Compagnie Bell et un des directeurs de *Northern*. Il avait néanmoins essayé de défendre la filiale, en se basant sur le fait que tout rendement, quel qu'il soit, ne pouvait qu'augmenter le volume des transactions de *Northern*. Il avait fait une réponse analogue au sujet des ventes en détail des produits de *Northern*, tels que tournevis et ampoules électriques. Ainsi, remarqua l'avocat, M. Lester semblait défendre l'idée qu'il était convenable que *Northern* ait un commerce, pour autant qu'il rapporte; et cependant, dans son témoignage principal il avait déclaré que *Northern* avait abandonné son commerce "d'appareils ménagers" afin de pouvoir s'occuper davantage des besoins de l'industrie du téléphone.

L'avocat constata que les ventes de *Northern* aux compagnies autres que la Compagnie Bell, augmentaient. Aussi, lui était-il difficile de comprendre comment *Northern* pouvait, d'une part, justifier son commerce avec d'autres compagnies,

commerce sans rapport avec l'industrie du téléphone comme étant avantageux et convenable et d'autre part montrer les profits de l'association entre la Compagnie Bell et *Northern*, en déclarant que cette dernière avait abandonné son commerce "d'appareils ménagers" pour s'occuper davantage des besoins de l'industrie du téléphone.

L'avocat nota aussi que les gains de *Northern*, en 1964 tout au moins, ne comprenaient aucun dividende de sociétés filiales. Bien que les placements dans les sociétés filiales aient probablement été minimes, (\$1.8 million, selon l'avocat), on ne pouvait pas dire pour autant que les gains de ces filiales, ou que leurs bénéfices réinvestis, n'aient pas été importants.

L'avocat conclut en disant qu'il était très significatif que la Compagnie Bell n'ait pas appelé de témoins pour contredire MM. Thatcher et Simonton, et qu'elle n'ait seulement pas demandé à un expert-conseil d'assurer qu'il n'était pas nécessaire d'examiner les prix de la *Northern*. Et certes, les témoins de la Compagnie Bell avaient dit qu'il y aurait intérêt à les examiner. Selon l'avocat, ceci pouvait convaincre la Commission de demander à la *Northern* de lui montrer ses prix, dans l'intérêt des abonnés de la Compagnie Bell.

(c) Au nom de la Fédération canadienne des Maires et des Municipalités et autres

(1) Déclaration d'ouverture:

Voici la réponse de l'avocat des municipalités après la déclaration d'ouverture de l'avocat de la Compagnie Bell, lors de l'ouverture de l'audience. (Voir section 3 a) (1) ci-dessus). Il saisit l'occasion pour jeter un coup d'oeil sur les activités de la Compagnie Bell et voir à quel point les intérêts des abonnés en étaient touchés; il déclara que ses clients avaient l'intention d'examiner toutes les dépenses, plus particulièrement celles encourues pour obtenir du capital. Il remarqua que la Compagnie Bell avait environ 40 p. 100 de son capital en obligations, d'une charge d'intérêt de seulement 4.8 p. 100, et 60 p. 100 de son capital sous forme d'actions ordinaires. La Compagnie Bell avait demandé un rendement global du capital engagé de 7 p. 100, mais étant donné que 40 p. 100 du capital était en obligations, exigeant un rendement de seulement 4.8 p. 100, ceci signifiait un rendement d'environ 8.5 p. 100 de l'avoir propre ordinaire. Les municipalités, cependant, ont pensé que la Compagnie Bell devrait avoir un rendement de seulement 7 p. 100 de l'avoir propre, ou un rendement global de 6.1 p. 100 du capital engagé.

L'avocat remarque que la Commission dans ses décisions de 1950, 1952, et 1958, avait établi les bénéfices de la Compagnie à \$2.43 par action; en 1964, ceci équivalait à 5.9 p. 100 du capital total, ou 6.6 p. 100 de l'avoir propre

ordinaire. La Compagnie Bell avait en fait gagné en 1964, 7.3 p. 100 de l'avoir propre ordinaire, ou 6.3 p. 100 du capital total. L'avocat dit que ses clients étaient prêts à accepter des bénéfices de \$2.59 par action, ou de 7 p. 100 de l'avoir propre, ou de 6.1 p. 100 du capital global.

Bien que le niveau autorisé de bénéfices ait été établi à \$2.43 par action, l'avocat nota que les bénéfices de la Compagnie Bell se présentaient comme suit:

<u>Année</u>	<u>Bénéfices par action</u>
1959	\$2.48
1960	\$2.52
1961	\$2.50
1962	\$2.66
1963	\$2.58
1964	\$2.71

Ces bénéfices sont tous supérieurs au niveau autorisé; et cependant, comme l'avocat de la Compagnie Bell l'avait fait remarquer dans sa déclaration d'ouverture, la Compagnie n'avait pas cherché à provoquer la présente audience, pas plus d'ailleurs qu'elle n'avait cherché à réduire les taux, pour que le taux de rendement soit les \$2.43 établis par le Conseil.

L'avocat des municipalités dit qu'il restait à savoir si la Compagnie Bell devrait avoir 8.5 p. 100, ou 7 p. 100 de son capital propre ordinaire. Ses clients étaient d'avis que la Compagnie Bell devrait financer davantage au moyen d'obligations, de façon à élever son prorata de la dette à 50 p. 100 au moins, comme les services d'électricité. Il en résulterait une économie évidente en rendements inférieurs, puisque l'intérêt est déductible, comme coût de l'impôt sur le revenu. À cet effet, les 8.5 p. 100 du capital propre que la Compagnie Bell avait demandés, exigeraient 17 p. 100 avant l'impôt sur le revenu comparé à 4.8 p. 100 pour les obligations. Les municipalités considéraient qu'un rendement de 7 p. 100 de l'avoir propre ordinaire était juste et raisonnable, parce que supérieur au coût en capital de la Compagnie Bell, d'après l'épreuve concluante de la situation du marché, et parce qu'elle permettrait également à la Compagnie Bell d'attirer les capitaux voulus. La Compagnie a obtenu \$1.5 milliard en capital frais depuis la dernière audience sur les tarifs en 1958, époque où son taux de rendement était inférieur à 7 p. 100.

L'avocat rappela que les actionnaires avaient tiré avantage des bénéfices non distribués des filiales de la Compagnie Bell (équivalents, en 1964, à 12 cents par action de Bell), et des privilèges périodiques ou "droits" d'acheter les actions de la compagnie Bell à des prix beaucoup plus bas que le prix courant (à 74.6 p. 100 du prix courant en mars 1954). A cet effet, l'avocat, dit que les municipalités pouvaient

montrer, par des documents à l'appui, que ces "droits" avaient valu environ 71 cents par action par année de 1949 à 1964.

Les municipalités, selon l'avocat, ne trouvaient pas que la Compagnie Bell avait besoin d'un rendement plus élevé de 8.5 p. 100 de l'avoir propre ordinaire, qui était une augmentation de 30 p. 100 sur les bénéfices autorisés par la Commission et une augmentation de 21 p. 100 sur les 7 p. 100 considérés justes et raisonnables par les municipalités. Si les actionnaires de la Compagnie Bell se faisaient accorder le rendement de 8.5 p. 100, en plus de leurs bénéfices venant des bénéfices non distribués des filiales et de leurs "droits" d'acheter les actions de la Compagnie Bell, les municipalités entrevoyaient alors une demande précoce de tarifs interurbains élevés, afin de faire le plus de bénéfices possible. Les actionnaires s'attendraient certainement à ce que les autorités habilitées à réglementer accordent les taux qui rapporteraient le rendement établi par ailleurs. Mais, une fois le taux de rendement établi, comment la Commission déterminera-t-elle si la demande de taux plus élevés a été causée par l'inflation, l'incapacité professionnelle, ou autre?

Le Canada et le monde, selon l'avocat, entraient dans une ère d'incertitude. Sans tenir compte de la situation internationale, des problèmes de la balance générale des comptes, de la crise de la disponibilité internationale et du monde de la finance, il y eut une période de cinquante-six mois durant laquelle les affaires furent prospères, période surpassée seulement par celle de soixante-six mois entre avril 1924 et avril 1929, tirait à sa fin. L'avocat trouva que les demandes de la Compagnie Bell n'étaient ni justes ni raisonnables, étant donné les circonstances pénibles. Les actions de la Compagnie Bell, avec 7 p. 100 de rendement, plus les bénéfices venant des bénéfices non distribués des filiales et les bénéfices venant de l'émission de droits, demeuraient des actions très intéressantes, qui continueraient à attirer les actionnaires dans les jours sombres qui s'annonçaient. Toute tentative d'en faire aujourd'hui des actions volatiles, des actions à croissance rapide, n'était pas une tentative heureuse, ni pour les abonnés, ni pour les actionnaires.

(2) Les caractéristiques économiques et l'expansion de la Compagnie:

L'avocat énuméra ce qu'il appelle les caractéristiques de la Compagnie, et en fit le commentaire. Il affirma que la main-d'oeuvre était dispendieuse, proportionnellement aux revenus nets et aux dépenses d'exploitation, et surtout en comparaison avec les services d'électricité. À cet effet, la Compagnie avait soumis des chiffres, montrant un rapport entre les dépenses totales d'employés et le revenu d'exploitation, de 29.82 p. 100, en 1963, et un rapport entre les dépenses totales d'employés et les dépenses d'exploitation, de 46.19 p. 100, en 1963 également. La Compagnie avait affirmé que les frais augmentaient avec

le volume, en cela que les téléphones doivent être reliés entre eux; mais ce point avait déjà été souvent débattu. M. Bonbright*, en parlant des appareils de communication, avait dit que la compensation possible des câbles extérieurs et des systèmes de fils électriques diminuait, et l'avocat contestait le fait qu'il résultait, dans ce qu'il appelait "un service d'expansion verticale", une augmentation de dépenses. C'est par ce facteur que la Compagnie différait des compagnies d'électricité. L'avocat considérait que l'augmentation possible du taux de revenu de chaque téléphone était limitée, et même inférieure à celle actuellement obtenue dans le domaine des appareils d'énergie électrique. Se posait le problème de l'élasticité des demandes dans plusieurs services de la Compagnie. Le prorata de la dette de la Compagnie était plus bas que celui des services publics d'électricité, et son avoir propre moyen par action augmentait lentement, à cause de la dilution considérable qui venait des émissions de droits et de la vente d'actions aux employés à des prix bien au-dessous du prix courant. La Compagnie avait un rapport élevé entre les bénéfices nets et les revenus bruts d'exploitation (ventes), de 14.3 p. 100 en 1964; ce rapport était élevé si on le compare à celui des autres industries, mais ne traduisait aucune incapacité professionnelle et demeurait simplement un facteur des entreprises de téléphone. Ceci signifiait que, contrairement aux compagnies de moindre envergure, une augmentation plus grande dans le chiffre de ventes était nécessaire pour accroître le rapport entre les bénéfices nets et le chiffre de ventes.

L'avocat dit que le rapport entre les revenus d'exploitation et le capital engagé de la Compagnie ("rapport de la circulation des capitaux") était plus bas et qu'il fallait davantage de placements des revenus annuels que d'opérations commerciales ou industrielles; ainsi, les dépenses totales établies étaient-elles plus élevées et plus indépendantes du volume de service. Le profit net possible de la Compagnie avait été limité par l'augmentation de l'amortissement au cours des dernières années. L'avocat remarqua qu'une des caractéristiques des services publics était qu'on leur demandait de produire dans une mesure qui ne pouvait jamais être pleinement exploitée. Il y avait aussi les délais des constructions pendant lesquels la Compagnie devait payer les rémunérations des actions supplémentaires, avant de recevoir les revenus des constructions, payées par ces actions; selon l'avocat, la Compagnie devait trouver un moyen de combler cette lacune.

Le déclin dans le taux d'expansion des opérations de la Compagnie, tout à fait normal après le mouvement d'après-guerre, continuait, même si aucun recul économique ne se manifestait. Entre 1957 et 1964, le taux d'augmentation des téléphone tomba de 6.2 p. 100 à 5.1 p. 100. Le nombre de téléphones doubla entre 1954 et 1964, mais un seul supplément de 200,000 téléphones, selon la

* M. James C. Bonbright, *Principles of Public Utility Rates*, (1961), page 17, Note 15.

Compagnie, n'apporterait qu'un surcroît de 46 p. 100 pour la décennie suivante, comparé à 100 p. 100 pour la décennie passée. Il y eut plus d'appareils supplémentaires que de téléphones principaux et le pourcentage de maisons sans téléphone passa de 14 p. 100 en 1957 à 8 p. 100 en 1964. Entre 1957 et 1963, le taux d'augmentation de la propriété téléphonique tomba de 14.86 p. 100 à 8.6 p. 100, et le taux d'augmentation du capital engagé, de 14.3 p. 100 à 8.08 p. 100. Le taux d'augmentation des revenus d'exploitation de fin d'année par téléphone passa de 4 p. 100 à 1.6 p. 100, et, entre 1959 et 1963, l'augmentation du revenu par téléphone fut de 8.85 p. 100 soit, 2.21 p. 100 par année.

En ce qui concerne "l'expansion verticale", l'avocat avoua qu'il avait eu de la difficulté à rassembler suffisamment de faits significatifs, mais ajouta que la Compagnie n'y était pour rien. La Compagnie, dans une lettre à l'avocat en date du 26 mars 1965, avait déclaré: "qu'on pouvait considérer les revenus à forfait suivants comme synonymes" "d'expansion verticale": tous les revenus fixés par avance sauf ceux des téléphones principaux, du Centrex, des circuits PBX, des garanties semi-privées et de service radio périphérique". En 1964, les revenus fixés par avance s'élevèrent à \$295 millions ceux des exceptions à \$216 millions, d'où une différence de \$78 millions, soit 14 p. 100 des revenus d'exploitation. L'avocat comprenait pourquoi les recettes "interurbaines" faisaient partie de "l'expansion verticale", mais, en mettant ces revenus de côté, les autres revenus de "l'expansion verticale" n'étaient plus qu'une partie infime du total.

Cependant, l'avocat dit qu'on ne savait pas quel était le bénéfice de ces prétendus revenus "d'expansion verticale", et qu'on devrait avoir une idée du montant. À cet effet, l'avocat signala un article de revue dans lequel on disait "que l'A.T. & T. pourrait offrir le service ordinaire dans la mesure où ses services plus élaborés le lui permettraient". Étant donné que la Compagnie Bell n'avait pas pu présenter à l'avocat des chiffres établissant les dépenses, ou les bénéfices, de ces services "d'expansion verticale", l'avocat déclara que la Compagnie ne pouvait pas prouver la possibilité d'une expansion dans ce domaine.

En parlant de la stabilité des entreprises de téléphone, l'avocat fit mention d'un autre article d'après lequel le danger pour les entreprises téléphoniques à l'égard de certains facteurs cycliques était maintenant moins grand, et que les bénéfices annuels du Bell System aux États-Unis avaient été de l'ordre de 6 p. 100 à 10 p. 100 au cours des quatre dernières périodes de régression économique. Ce fait était la partie ci-indiquée de son exposé:

"Il semble que les faits confirment l'évolution historique de la Compagnie Bell en tant que service public, son progrès graduel et constant, ses béné-

fices raisonnables et stables ainsi que ses dividendes, au cours des différents cycles économiques.

Les actions de la Compagnie Bell, à cause de certaines limites, ne peuvent pas devenir facilement des actions à croissance rapide. Ceci n'est possible qu'au détriment des tarifs plus élevés nécessaires à Bell pour garder sa stabilité et attirer des capitaux".

L'avocat poursuit en disant que la Compagnie Bell avait conscience du danger couru en fabriquant de nouveaux produits, mais qu'elle provoquait la demande, une fois le produit mis au point. Ainsi, elle pouvait contrôler l'avenir de ses produits. La Compagnie, dit-il, à cause de cela, ne devrait pas demander un taux de rendement plus élevé; il y avait peu de danger dans le fait d'aménager des services de base, et on ne devrait garantir aucun taux de rendement des nouveaux produits, plusieurs d'entre eux pouvant fort bien s'avérer inutiles.

L'avocat, abordant la question des actions à croissance rapide, par opposition aux actions assurant un revenu, fit mention de l'ouvrage "*Security Analysis*" (4^e édition, 1961), de MM. Graham, Dodd, Cottle et Tatham, fréquemment employé par les financiers, qui définit les actions à croissance rapide, comme suit:

(p. 428) "... celles dont le taux d'expansion a été légèrement supérieur (au-dessus de la moyenne) au cours d'un certain nombre d'années, et qui continuera à l'être. A notre avis, la durée moyenne devrait être de cinq ans et plus."

Il cita également le passage suivant, au sujet des services publics (page 530 du livre):

"... l'industrie n'a pas les possibilités spéculatives d'expansion de certaines entreprises manufacturières et industrielles..."

L'avocat remarqua qu'à l'audience de 1958, l'avocat de la Compagnie Bell avait déclaré:

"... nous ne sommes pas dans la situation d'une entreprise industrielle privée, en mesure de retarder les bénéfices, et dont l'actionnaire peut envisager une amélioration des actions assurant des gains de capitaux..."

"Les actions ordinaires de la Compagnie Bell sont des actions assurant un revenu. C'est-à-dire que toute personne qui fait un placement en achetant ces actions n'espère pas réellement un gain en capital, mais s'attend que le paiement des dividendes sera régulier".

"Les actions ordinaires de la Compagnie Bell ne sont pas des actions à croissance rapide; et la seule manière de les rendre sûres aux yeux du public est de garantir un paiement régulier des dividendes".

Selon l'avocat, les principaux problèmes en matière d'actions à croissance rapide furent: a) la possibilité de multiplier le rendement; b) le mode de soutien du taux d'expansion; et c) ce qui arrive lorsque le taux d'expansion se fige. À ce propos, l'avocat a lu quelques passages d'un article du *Financial Analyst*, du mois de janvier-février 1963, écrit par M. Ralph E. Badger, disant que le procédé de multiplication supposait des bénéfices à un taux constant, ou ascendant, du capital engagé; qu'une compagnie déjà formée peut avoir connu très vite une période d'expansion et en concevoir une plus lente mais plus stable pour l'avenir; que les perspectives de progrès peuvent s'annoncer dispendieuses; que, malgré des conditions économiques favorables, un grand nombre d'établissements industriels importants n'avaient pas su augmenter les bénéfices, dans le sens d'un progrès général, et avaient trouvé difficile, voir impossible, de faire fructifier le capital effectif; et que, entre 1955 et 1961, les bénéfices des entreprises avaient été stationnaires. L'avocat a également fait mention de plusieurs autres articles au sujet d'actions à croissance rapide et de l'expansion économique. Il signala l'article de M. R.M. Solow, professeur à l'Institut de technologie du Massachusetts, qui affirme qu'aucun économiste digne de ce nom parlerait d'un taux d'expansion de 5 p. 100, et que pourtant, le Conseil économique du Canada avait déclaré nécessaire de maintenir, d'ici 1970, un taux d'expansion de 5.5 p. 100, afin de compter davantage de travailleurs dans l'effectif de la main-d'oeuvre.

L'avocat cita d'autres passages du professeur Solow et remarqua que si l'on n'arrivait pas à équilibrer dans l'avenir les hauts et les bas du cycle économique, il y aurait probablement une récession tôt ou tard, qui ferait tomber les taux de bénéfices. Et même si la courbe des hauts et des bas s'équilibrait, le taux de bénéfices diminuerait. Selon lui, l'avocat de la Compagnie Bell aurait dit, dans son plaidoyer que l'expansion des opérations semblait s'arrêter; et M. Atchison, dans son témoignage de l'appréciation de la compagnie par les bailleurs de fonds aurait dit que les dépenses importantes en capital seraient, dans l'avenir, un pourcentage décroissant du matériel existant; ce qui demanderait moins de financement extérieur et moins de dilution de l'intérêt des actionnaires. Il en conclut que les actionnaires seraient heureux de voir une allure d'expansion moins vive, qui n'entraînerait pas une dilution de l'avoir propre.

Enfin, l'avocat dit qu'un des facteurs jouant contre les actions à croissance rapide, était l'avenir limité de l'expansion, venant de la hausse des prix courants; à tel point que les investisseurs obtenaient des bénéfices réduits avec une monnaie dont la valeur nominale était augmentée; un retour à la normale risquait d'être brutal.

(3) Le régime de pensions de la Compagnie:

L'avocat fit remarquer que le régime de pensions de la Compagnie était financé sans cotisations, alors que la majorité des régimes canadiens étaient

selon, les témoignages, financés par cotisations. Les fonds fédéraux et du Québec étaient tous des fonds à cotisations, mais la plupart des caisses des compagnies canadiennes de téléphone ne l'étaient pas. D'autre part, presque tous les fonds des services publics d'électricité étaient à cotisations. L'avocat proposa que la Commission entreprenne une étude pour déterminer si les régimes financés sans cotisations étaient meilleurs que les régimes financés par cotisations, du point de vue des abonnés.

L'avocat, voyant que la Compagnie avait adopté la méthode basée sur la comptabilité d'exercice pour consolider le régime, dit que ce n'était pas parce que les gouvernements fédéral et du Québec suivaient la même méthode, qu'elle était meilleure ou moins dispendieuse. En 1964, la Compagnie a versé au fonds une somme de \$10.9 millions, et le revenu de placement du fonds s'est élevé à \$9.2 millions; soit un total de \$20.2 millions, alors que les déboursments du fonds n'ont été que \$5.9 millions. L'avocat était consterné de voir les dépenses assumées pour le régime, et était d'avis que la Commission entreprenne une étude de la situation.

L'avocat remarqua que le régime de pensions de la Compagnie manquait de progressivité, s'adressant aussi bien aux administrateurs en chef qu'aux ouvriers de dernière classe, à cette exception que la pension se montait à 1 p. 100, au lieu de 1.1 p. 100, pour les traitements de plus de \$10,000. Il proposa que le régime soit davantage progressif. À son avis, on ne devrait pas assouplir le régime, sans avoir le consentement de la Commission.

L'avocat déclara que seulement 7 p. 100 des placements du fonds consistaient en actions et demanda pourquoi il ne conviendrait pas d'acheter des actions de la Compagnie Bell. Selon lui, les comparaisons faites avec d'autres fonds, comparaisons faites par la compagnie, n'étaient pas satisfaisantes; de plus, on n'avait aucune preuve de l'avantage des modifications apportées en mars 1959, en vertu desquelles la pension de base était calculée sur les cinq années consécutives les plus avantageuses, au lieu de l'être sur les dix années consécutives les plus avantageuses.

(4) Le plan de vente d'actions aux employés:

La plaidoirie de l'avocat n'est pas résumée ici, parce que la question a été abordée au cours d'une audience ultérieure, tenue à Ottawa, le 15 février 1966; une décision fut prise à ce sujet le 18 février 1966. (56 B.T.C., Brochure N° 6)

(5) Amortissement:

L'avocat déclara qu'il n'avait rien à ajouter au témoignage porté sur l'amortissement. Il fit remarquer que la *California Commission* avait recommandé l'emploi de la méthode d'amortissement constant (durée utile) qui insiste davan-

ge sur la durée prévue de service que sur la durée moyenne de vie; la Compagnie Bell employait la méthode d'amortissement constant (durée globale). Toutes deux cependant étaient des méthodes de groupe. Même si la désuétude était un facteur important de l'amortissement, on pouvait s'en rendre compte par les taux d'amortissement payés par les abonnés, et, étant donné que la Compagnie Bell pouvait prévenir la désuétude, celle-ci ne devrait pas être un facteur si important. Bien qu'on puisse parler de désuétude, l'avocat était d'avis que le nouveau matériel était beaucoup plus profitable que l'ancien. Si la situation s'aggravait, la Compagnie devrait renouveler son matériel graduellement, plutôt que de le changer en une seule fois. L'avocat proposa que la Commission s'informe, lors de sa vérification périodique des affaires de la Compagnie, de l'état du matériel et de l'importance de la désuétude. La Commission devrait même, au besoin, maîtriser la situation en s'assurant que la Compagnie Bell amortisse la désuétude sur un certain nombre d'années; les taux ne devraient pas pour cela être augmentés, pas plus d'ailleurs que les taux de rendement. Puisque dans certains cas la Compagnie Bell prétendait pouvoir provoquer la demande, elle pouvait aussi prévenir la désuétude. Si vraiment le matériel était aussi désuet que la Compagnie l'indiquait, le taux d'expansion ne pourrait pas augmenter aussi rapidement, et les actionnaires devraient partager l'augmentation du coût, pour ne pas avoir à demander un taux de rendement plus élevé.

(6) Au sujet de la révision économique générale et des prévisions de la Compagnie:

L'avocat déclara que les responsables de la réglementation devraient entreprendre une étude de la situation économique. La question de savoir si la Commission devait encourager l'économie avait été abordée par l'avocat de la Compagnie Bell, [voir section 3 a) (11) ci-dessus], et par l'avocat des municipalités, [voir section 3 c) (8) ci-dessous]. Examinant la situation économique au cours d'une audience sur les tarifs, l'avocat dit qu'il fallait tenir compte non seulement de l'état général de l'économie, mais aussi d'un certain mouvement qui n'avait pas été avantageux pour tous.

Dans son mémoire du 28 novembre 1964, la Compagnie avait fait la déclaration suivante:

"... le dynamisme de l'économie nationale et la constante fluctuation des marchés financiers rendent parfois impropres les normes d'évaluation des demandes des actionnaires ..."

L'avocat fit remarquer que le changement, si on pouvait parler de changement des marchés financiers, se manifestait davantage par un déclin des bénéfices industriels. Ces marchés indiquaient aussi un arrêt dans la marche des affaires, au cours duquel les bénéfices diminueraient encore plus. L'avocat ajouta que la Compagnie avait déclaré plus loin:

“ ... À cause de l'évolution rapide de l'économie canadienne, et des marchés financiers en particulier, les différents critères servant à établir un taux juste et raisonnable de bénéfices, ne permettent plus un calcul mathématique précis, surtout s'il s'agit de bénéfices répartis sur une longue période. Compte tenu des circonstances prévisibles, une rémunération d'environ 7 p. 100 du capital total engagé dans la Compagnie serait juste et raisonnable”.

L'avocat fit observer que l'économie canadienne, sans se détériorer, devenait stagnante, ce qui justifiait sans doute des taux de rémunération inférieure, et non supérieurs.

À la suite de l'argument de l'avocat de la Compagnie Bell rappelant qu'au cours des audiences, l'avocat des municipalités avait déclaré que le Canada était au seuil d'une récession, la Compagnie avait été convaincue qu'une ère de prospérité s'annonçait pour les années 1965 à 1970. L'avocat des municipalités n'était pas du même avis; il avait posé quelques simples questions au professeur Barber et ses opinions sur les événements et les points de vue concernant la situation économique. L'avocat considérait qu'il avait rendu service à la Compagnie s'il avait réussi à ébranler son optimisme. Selon l'avocat, la constante réorganisation des nouvelles mises au point, que la Compagnie Bell appelait “l'évolution rapide de l'économie”, prouvait bien que la situation n'était pas aussi merveilleuse que le prétendait la Compagnie.

L'avocat de la Compagnie Bell fit le commentaire suivant des remarques de l'avocat des municipalités:

“Permettez que je ne partage pas son opinion et que je ne sois pas la seule voix discordante d'un groupe d'économistes compétents, qui prévoient un rendement élevé et une économie active jusqu'en 1970 au moins”.

L'avocat des municipalités remarque que la Compagnie Bell n'avait pas révélé à la Commission quel était ce groupe harmonieux. M. Barber n'avait rien prédit de semblable; et son raisonnement était fondé sur les rapports de certaines administrations et de certains conseils. Le Conseil économique du Canada n'avait lui-même fait aucune prévision; il avait seulement fait part de ses objectifs. Il était évident que tous ne voyaient pas la situation économique du même oeil; et cependant, la Compagnie Bell, sans preuve à l'appui, continuait à envisager un progrès croissant et une prospérité soutenue jusqu'en 1970.

L'avocat fit observer que M. W.M. Martin, président du *Federal Reserve Board*, avait rappelé le 1^{er} juin 1965 qu'il y avait eu dans les années 1920 des signes d'inquiétude semblables, à savoir: a) progrès quasi ininterrompu pendant sept années; b) concentration de la prospérité dans les pays développés et dans leurs secteurs industriels; c) augmentation considérable de la dette intérieure

privée; d) accroissement des fonds, du crédit bancaire et du roulement des dépôts à demande; e) augmentation de la dette internationale à un rythme aussi rapide que celui de la dette intérieure; f) problème de la balance générale des comptes; g) problème de la disponibilité internationale; h) conviction de plusieurs qu'une ère de prospérité avait commencé, enrayant les fluctuations du commerce et la pauvreté et assurant un progrès économique et une expansion continus; i) dépression de 1929 due aux mauvaises mesures prises lors de l'emballement précédent. L'avocat cita également plusieurs autres auteurs, économistes et financiers qui envisageaient la situation sous le même angle.

L'avocat ajouta que le témoignage du professeur Barber sur les taux d'expansion prévus ne portait que sur le possible, et ne devait pas être considéré comme une prévision du probable. Ses affirmations sur la situation économique étaient basées sur des hypothèses et des extrapolations. Il reconnut que le Rapport Hall n'était ni une extrapolation, ni une prévision; que le rapport du Conseil économique du Canada établissait des objectifs, non pas des prévisions, ni même les moyens de réaliser ces objectifs. M. Barber avait dit que, dans un certain sens, ces rapports étaient des extrapolations. Le professeur Albert Breton avait précisé ce point-là dans son commentaire et dans son résumé, cités plus tôt par l'avocat. Le Conseil économique du Canada était d'avis qu'un taux d'expansion de 5.5 p. 100 par année était nécessaire pour réaliser ses objectifs d'ici 1970 et pour assurer 1.5 million de nouveaux emplois. M. Barber aussi reconnut ce fait. À ce propos, l'avocat remarqua que M. Peter Bernstein, dans son récent livre *"The Price of Prosperity"*, avait démontré que la majorité des prévisions supposait une augmentation de demandes, mais ne le prouvait pas. Bell était dans la même situation.

L'avocat rappela qu'en contre-interrogatoire, M. Barber avait dit que les améliorations technologiques avaient compensé le fait que la rémunération du capital semblait diminuer en raison du montant du capital par travailleur; ainsi, le taux de rendement du capital n'avait pas tellement changé au cours des années. Selon M. Barber, la déclaration suivante du professeur Paul Samuelson était très juste: "Le taux d'intérêt ou de bénéfice ne diminue pas, il oscille dans le cycle des affaires; aucune hausse, aucune baisse remarquables ne sont à prévoir pour ce siècle." Le professeur Barber, après s'être fait dire qu'il n'avait pas envisagé la possibilité d'un ralentissement ou d'une récession d'ici 1970, en affirmant qu'il y aurait une concurrence très forte pour des fonds sur les marchés financiers, avait répondu que sa déclaration était fondée sur le fait que le Canada semblait pouvoir réaliser les objectifs du Conseil économique. M. Barber avait ajouté qu'il y aurait récession occasionnellement, ne serait-ce que de simples ralentissements du taux d'expansion, et qu'il était fort probable que le danger d'une récession se précise en janvier 1966. À son avis, les dépenses

excessives en capital et en biens durables pouvaient être une cause de récession, provoquant par la suite un ralentissement dans l'économie.

L'avocat mentionna les trois rapports suivants, qui furent présentés au Conseil économique du Canada:

- (1) *L'épargne nationale dans l'hypothèse de la réalisation du potentiel de production pour 1970*, par M. Frank Wildgren; étude préparée par le personnel du Conseil, N° 10.
- (2) *Investissements privés pour 1970*, par M. Derek A. White; étude préparée par le personnel du Conseil, N° 5.
- (3) *Enquête spéciale sur les intentions et la programmation à moyen terme des entreprises privées dans le domaine des investissements*, par M. B.A. Keys; étude préparée par le personnel du Conseil, N° 6.

L'avocat fit remarquer les hypothèses avancées par M. Wildgren, à savoir qu'il était peu probable que les régimes de pensions du Canada réduisent l'épargne privée, (page 49 de l'étude), et cita M. Wildgren (page 56):

"Une entrée nette de capitaux à long terme, soit 1,800 millions de dollars en 1970, serait sensiblement moindre par rapport à l'investissement (17,300 millions de dollars) et au revenu intérieur, qu'elle ne l'a déjà été dans des circonstances comparables de rapide accélération de l'activité économique intérieure."

À ce propos, M. Barber avait déclaré qu'en 1970 le total des investissements au Canada s'élèveraient à \$18.8 milliards, ce qui exigerait une entrée de capitaux de seulement \$1.8 milliard, soit 10 p. 100. L'étude faite par M. White montre la précarité des différentes projections, précarité indiquée dans la citation suivante:

"Il est bien entendu que la valeur de nos projections dépend non seulement de la validité des estimations du stock de capital et de la production, mais aussi des diverses projections des rapports entre le capital et la production des industries. L'établissement de ces projections aussi bien que des projections des données dégonflées des investissements oblige à formuler des jugements subjectifs et il n'existe guère de renseignements indépendants qui permettent de se prononcer sur la validité de ces jugements.

"Les projections font voir un rapport entre les investissements et le P.N.B. sensiblement plus élevé que celui qui a caractérisé l'ensemble des années d'après-guerre."

Dans son étude, M. Keys mentionna un fait qui, selon l'avocat, était encore plus pertinent aux problèmes exposés au cours des audiences; l'avocat cita le passage suivant (page 7 de l'étude de M. Keys):

“Le financement des investissements projetés n'est pas considéré comme une source de graves problèmes. De façon générale, on espère que les bénéfices non distribués et les fonds d'amortissement continueront à fournir la majeure partie des sommes requises pour le financement de la plupart des programmes. Presque toutes les sociétés prévoyant la nécessité de sortir de leurs propres cadres songent à emprunter la plus forte partie possible des montants nécessaires.”

Ceci fut confirmé par le témoignage de M. Groleau, en particulier sa pièce justificative B-60, d'après laquelle les placements en obligations étaient de beaucoup supérieurs aux placements en actions, pour la période considérée. M. Keys a également dit, (page 7), et l'avocat a bien insisté sur ce point, que:

“Sauf quelques entreprises d'utilité publique, bien peu de sociétés comprises dans notre enquête songent à recourir à une augmentation de leur capital-actions pour financer leurs investissements.”

Selon l'avocat, cette assertion établissait le fait que la Compagnie Bell, au moment de trouver de l'aide financière sous forme de capital-actions supplémentaire, n'aurait pas la concurrence qu'elle prévoyait sur les marchés financiers.

L'avocat conclut en affirmant que le programme de construction de la Compagnie Bell n'aurait pas la portée qu'on envisageait, à cause du ralentissement dans l'expansion.

(7) *Les relations entre la Compagnie Bell et la Northern Electric Company Limited:*

L'avocat, dans son mémoire, proposa un rendement de 7 p. 100 du capital-actions de la Compagnie Bell, ou les bénéfices équivalents par action, et secundo qu'on ne déduise, de toutes opérations entre les deux compagnies, que les frais et 7 p. 100 du capital-actions. Limiter ainsi la rémunération pour les opérations entre les deux compagnies était non seulement logique et possible, mais avait été recommandé et mis en pratique aux États-Unis. Il n'y avait aucune raison plausible pour que les abonnés de la Compagnie Bell ne tirent pas avantage d'un tel procédé, puisque les abonnés aux États-Unis en avaient bénéficié. L'avocat ajouta qu'à ce propos, la Cour suprême de Californie avait ratifié le jugement que la *California Commission* avait récemment porté à l'égard du *Pacific Telephone and Telegraph Company*, à l'exception de la rétroactivité de certaines réductions de tarifs; la Cour avait déclaré (page 39 des décisions):

“... Nous n'avons rien trouvé qui puisse justifier un changement dans la façon de voir de la Commission, à savoir que la Compagnie *Western* n'a pas droit à une rémunération de ses ventes à l'intimé plus élevée que celle que l'intimé a le droit de gagner sur ses opérations. On ne devrait pas permettre à la Compagnie *American*, par l'intermédiaire de la Compagnie *Western*,

d'imposer aux contribuables de l'intimé la charge d'assurer une rémunération déraisonnable."

Ce fait, déclara l'avocat, s'appliquait beaucoup plus au Canada, où la Compagnie *Northern* appartenait entièrement à la Compagnie Bell, qu'aux États-Unis, où la Compagnie *Western Electric* et les compagnies d'exploitation dans les différents Etats, étaient dirigées et administrées par l'*A.T. & T.* Dans son exposé, l'avocat alléguait qu'il ne fallait pas tenir compte de l'organisation différente des compagnies dans les deux pays. Il ne fallait pas oublier que les abonnés de la Compagnie Bell payaient ce que la Compagnie *Northern* gagnait par ses négociations avec la Compagnie Bell.

L'avocat ajouta qu'aux États-Unis, les filiales d'exploitation de l'*A.T. & T.* fournissaient les revenus; elles achetaient à la Compagnie *Western Electric* qui faisait ses bénéfices grâce à leurs "contribuables". Dans la mesure où les bénéfices de la Compagnie *Western* étaient en partie payés à l'*A.T. & T.* sous forme de dividendes, et dans la mesure où les bénéfices non distribués de la Compagnie *Western* n'étaient pas payés, mais restaient tout de même avantageux et disponibles aux actionnaires de l'*A.T. & T.*, celle-ci sentait moins le besoin de s'assurer les revenus des filiales d'exploitation. De même, les dividendes et les bénéfices non distribués de la Compagnie *Northern Electric* avantageaient la Compagnie Bell du Canada. Il a été démontré que le rendement sur les investissements faits par la Compagnie Bell dans la Compagnie *Northern* avait atteint le taux de rendement que la Compagnie Bell fixait à ses abonnés, écartant ainsi le besoin d'imposer un tarif plus élevé aux abonnés de la Compagnie Bell. L'avocat ne pensait pas que les commissions et les cours américaines modifieraient les circonstances actuelles, qui limitaient le taux de rendement auquel la Compagnie avait droit dans ses négociations avec les compagnies d'exploitation, même si l'*A.T. & T.* rendait son organisation commerciale semblable à celle des compagnies Bell et *Northern*.

L'avocat déclara que dans cette association des compagnies Bell et *Northern*, tous les bénéfices de la Compagnie *Northern* étaient disponibles, mais en fait, n'étaient payés à la Compagnie Bell que sous forme de dividendes, le rapport des bénéfices versés ne relevant que des directeurs de la Compagnie *Northern*. Lors de l'audience de 1950, les clients de l'avocat s'opposèrent au rapport des bénéfices versés de la Compagnie *Northern*, qui n'était à ce moment-là que 20 p. 100, ou moins. Au cours de cette audience, il y eut un effort volontaire pour l'augmenter; et effectivement, il augmenta, mais n'en continua pas moins à dépendre des administrateurs de la Compagnie *Northern*. Il était possible, même probable, qu'éventuellement les administrateurs de la Compagnie Bell décident de distribuer les actions de la Compagnie *Northern* aux actionnaires de la Compagnie Bell, procédé que l'avocat appela "*spinning-off*". En un tel cas, les action-

naires de la Compagnie Bell perdraient tout avantage des bénéfices non distribués de la Compagnie *Northern*, venant des négociations entre les compagnies *Northern* et Bell, ou autres.

Supposons, pour les besoins de la cause, que la Compagnie *Northern* fasse un bénéfice de 20 p. 100 dans ses transactions avec la Compagnie Bell: elle pourrait peut-être alors se "laisser aller". Mais supposons que le taux de rendement des transactions, de la Compagnie *Northern* avec la Compagnie Bell soit le même que celui que la Compagnie Bell s'assure par ses abonnés, et qui, selon l'avocat, devrait être de 7 p. 100 du capital-actions, la Compagnie *Northern* serait alors encouragée au même titre que Bell à faire preuve de compétence. Mais si la Compagnie *Northern* continuait à avoir droit à un taux de rendement plus élevé que celui de la Compagnie Bell, elle se trouverait à acquérir son capital des abonnés de la Compagnie, au lieu d'avoir le taux de rendement établi comme il se doit. Ce capital supplémentaire, par l'intermédiaire des bénéfices non distribués, s'ajouterait au capital-actions de la Compagnie *Northern*, sur lequel on doit gagner un taux de rendement.

L'avocat fit observer que l'avocat de la Compagnie Bell avait choisi 3.19 p. 100 comme pourcentage du bénéfice réalisé sur les opérations de la Compagnie *Northern*, et l'avait affecté aux ventes de la Compagnie *Northern* à la Compagnie Bell; ce chiffre, affirma-t-il, était inférieur aux dividendes payés par la Compagnie *Northern* à la Compagnie Bell. Pour l'avocat de la Compagnie Bell, la situation était satisfaisant. L'avocat des municipalités s'opposa à ce qu'on vérifie ainsi l'à-propos des bénéfices de la Compagnie *Northern*, parce que cela soulèverait la question de savoir si les bénéfices faits sur les ventes à la Compagnie Bell et les ventes à d'autres compagnies étaient vraiment de 3.19 p. 100, et parce que ce genre d'épreuve n'était pas exact. Une compagnie pouvait très bien avoir un pourcentage de ventes très bas et un rendement du capital-actions élevé, tout comme elle pouvait avoir un pourcentage de ventes élevé et un rendement du capital-actions très bas.

L'avocat voyait deux inconvénients à l'idée que le Conseil devrait voir à ce que les bénéfices non distribués de la Compagnie *Northern* soient judicieusement placés. D'une part, la Compagnie Bell devra encore distribuer les actions qu'elle possède dans la Compagnie *Northern* à ses abonnés, et, selon l'avocat, le Conseil ne saurait faire face aux difficultés administratives et pratiques que cause la surveillance constante du choix des placements de la Compagnie *Northern*. D'autre part, on peut soutenir avec raison que ce serait s'immiscer dans les droits des directeurs de la Compagnie *Northern*. On ne pourrait pas démontrer facilement que les expériences et antécédents du Conseil pourraient lui permettre de se substituer aux décisions des directeurs de la Compagnie *Northern* quant à ce genre de placements.

En ce qui concernait la question du coût possible pour obtenir de la Compagnie *Northern* un décompte, montrant le rendement du capital-actions de la Compagnie *Northern* dans ses transactions avec la Compagnie Bell, l'avocat déclara que ce n'était pas une tâche considérable; la Compagnie Bell n'avait aucune preuve des difficultés ou du coût de cette action. Si des études prouvaient que les frais sont excessifs et supérieurs aux avantages que les abonnés de la Compagnie Bell pourraient en retirer, alors seulement serait-il juste de faire un autre jugement.

L'avocat fit remarquer cependant que, tout comme aux États-Unis, une étude attentive et détaillée serait nécessaire, mais qu'il ne devrait pas y avoir de difficultés, une fois la base de comptabilité établie. La Commission ne prononcera pas un arrêt concernant la Compagnie *Northern*; mais elle fera part à la Compagnie Bell de son intention d'établir des tarifs, selon ce que la Compagnie aura révélé du taux de rendement sur les transactions entre les compagnies *Northern* et Bell; le taux de rendement de ces transactions sera, de plus, limité aux taux de rendement autorisé pour la Compagnie Bell.

L'avocat n'a pas étudié la position de ses clients quant à la possibilité que la Compagnie Bell distribue à ses abonnés les actions qu'elle possède dans la Compagnie *Northern*, parce qu'elle était libre de le faire. Il reconnut le fait que des dividendes et la rémunération de la Compagnie *Northern* à la Compagnie Bell étaient supérieurs aux taux de rendement auquel la Compagnie Bell avait droit, mais n'étaient qu'une petite partie des opérations et des capitaux de la Compagnie Bell. Cependant, il était très probable que, jusqu'à ce jour, on n'ait jamais vérifié la rémunération de la Compagnie *Northern* dans ses transactions avec la Compagnie Bell; et ceci concernait directement les abonnés. Ceux-ci se trouvaient peut-être à payer trop d'argent à la Compagnie *Northern*, par l'intermédiaire de la Compagnie Bell, alors qu'au cours des années la Compagnie Bell n'avait touché qu'une petite partie de la somme.

M. Van Scoyoc, continua l'avocat, avait proposé dans son annexe n° 21 un procédé 'point-de-départ' pour établir, selon une base ferme, un taux de rendement pour la Compagnie Bell. Ce procédé avait pour objet de régler la capitalisation nominale moyenne totale et la capitalisation effective moyenne totale, de façon à ce que les abonnés se voient attribuer les bénéfices de la Compagnie *Northern*, provenant des achats de la Compagnie Bell à la Compagnie *Northern*, et de façon à ce que les actionnaires de la Compagnie *Northern* venant de ses ventes autres qu'à la Compagnie Bell. L'avocat ne comprenait pas que la Compagnie Bell n'ait pas profité de l'occasion pour retirer plus de ses actionnaires. Il n'y avait aucun doute, qu'indépendamment du décompte des dépenses de la Compagnie *Northern*, les chiffres de M. Van Scoyoc devraient être mis au point, et rien n'empêchait cela. Pour des raisons de temps et autres, M. Van Scoyoc n'avait pu fournir les

renseignements dont il avait besoin; il n'avait que suggéré un moyen de calcul. L'avocat dit que ses clients n'avaient pas insisté davantage sur le calcul de M. Van Scoyoc, ni sur sa proposition.

L'avocat insista pour qu'une comparaison soit établie entre le taux de rémunération des ventes de la Compagnie *Northern* à la Compagnie Bell et le taux de rémunération des transactions de la Compagnie Bell, puisqu'il importait de connaître les dépenses exactes pour ne pas faire de subventions contradictoires. La Compagnie Bell ne savait pas ce que lui coûtaient les ventes verticales et les services de base de son entreprise, et ignorait même leurs avantages. De plus, aucun chiffre de dépenses, aucun taux de rémunération concernant les ventes de la Compagnie *Northern* à la Compagnie Bell et aux autres compagnies, n'avait été donné. Selon l'avocat, il était possible, et probable, qu'il y ait eu beaucoup de subventions contradictoires injustes envers les abonnés de la Compagnie Bell.

Il se pouvait également que la Compagnie *Northern* fasse une concurrence déloyale, ayant la possibilité de fixer aux clients, autres que les clients de la Compagnie Bell, des prix inférieurs aux dépenses, ou dont le taux de rendement était peu équitable; ainsi s'établissaient les différences entre les vrais prix et les vrais taux de rendement de ses transactions avec la Compagnie Bell. L'avocat n'a pas dit que cela existait de fait, mais que c'était à considérer.

En conclusion, l'avocat déclara que, même si selon les documents à l'appui de la Compagnie Bell, les prix que la Compagnie *Northern* faisait à la Compagnie Bell étaient inférieurs aux prix qu'elle faisait à quatre autres fournisseurs, on ne pouvait pas parler de modération, étant donné l'inexistence de rapports sur les taux de bénéfices faits par la Compagnie *Northern* et ces quatre fournisseurs, et de comparaisons entre les taux de rendement.

(8) *Au sujet des responsabilités de la Commission touchant la détermination d'un niveau autorisé de bénéfices pour la Compagnie:*

Ainsi qu'il est dit plus haut à propos du témoignage de la Compagnie, la Commission s'est demandé si elle devrait, en décidant du cas, agir de façon à aider l'économie du pays, ou simplement de façon à servir les intérêts de la Compagnie et de ses abonnés. Les opinions de l'avocat des municipalités, résumées ci-dessous, font suite à celles de l'avocat de la Compagnie, résumées plus haut, [voir section 3a) (11)]

L'avocat des municipalités commença son exposé en reprenant les dernières phrases de l'avocat de la Compagnie, que voici:

"En prenant une décision, la Commission devra tenir compte des mesures nécessaires à la Compagnie pour qu'elle puisse participer activement à

l'expansion économique du pays. Cette participation, à mon avis, est indispensable pour répondre à nos objectifs nationaux, et doit également être indispensable pour s'acquitter de nos devoirs envers nos abonnés, actuels et futurs, et envers nos actionnaires."

Une telle opinion, selon l'avocat représentant les municipalités, impliquait nécessairement, que, la Commission ne doit pas seulement fixer des tarifs en rapport avec les principes établis, basés sur des coûts raisonnables comprenant le coût en capital, mais doit aussi déterminer de tels tarifs en vue de mettre en valeur et de stimuler l'économie nationale. Cela implique qu'il faudrait déterminer les stimulants opportuns et cela impliquerait même un antagonisme entre les décisions de la Commission et celles du gouvernement relativement à ce qui devrait être fait et à son opportunité. Au dire de l'avocat, dans le cas où une société devrait entreprendre des mesures d'ordre social, politique ou économique afin de donner un essor à l'économie, il n'y a pas de raison pour que les abonnés du téléphone soient appelés à en supporter le fardeau. Dans le cas où le gouvernement demanderait à la Compagnie Bell d'encourager l'économie, alors il devrait nécessairement prévoir une subvention ou d'autres mesures afin que la société puisse mener cette tâche à bonne fin.

Le professeur Barber, selon l'avocat, a fait la déclaration suivante lors de son témoignage:

"... ce ne sont pas seulement les bénéfices d'une seule société commerciale qui sont en jeu, mais un élément important de l'expansion et du rendement de l'économie canadienne dans son ensemble qui est à l'étude." Cette déclaration, selon l'avocat, impliquait que, indépendamment des tarifs raisonnables basés sur les coûts, on devrait accorder à la Compagnie des tarifs plus que raisonnables simplement parce qu'elle constituait un élément de grande portée dans l'expansion et le rendement de l'économie canadienne. Les termes employés étaient vagues; en effet, on a dit que tous les services d'utilité publique constituaient des éléments de grande importance pour l'expansion du Canada et l'avocat a supposé que les services d'utilité publique étaient efficaces. Le seul fait que la Compagnie Bell ait pu réaliser une augmentation de ses revenus depuis 1958, sans accroître ses tarifs prouve que la Compagnie a été raisonnablement efficace.

Selon l'avocat, il ne devrait être obligatoire de saisir la Commission de telles considérations que dans le cas d'un léger ralentissement de croissance économique ou de récession. Dans ce cas, l'avocat a demandé si la Commission déciderait du taux de rendement du point de vue suivant, à savoir si des tarifs plus élevés ou plus bas stimuleraient l'économie? Il pourrait y avoir beaucoup plus de controverse parmi les économistes de bonne réputation à savoir si ce sont les bénéfices élevés ou les bas prix ou d'autres considérations qui seraient utiles pour maintenir l'économie du jour. L'avocat a conclu que cela ne consti-

tuerait ni un motif ni une considération convenant à un organisme de réglementation.

Le professeur Barber, a par la suite, apporté les explications suivantes à ce qu'il avait dit:

“Ce que j'entends par une estimation d'avant-garde est une estimation qui tient compte de la situation future de la Compagnie et de tous les éléments qui entrent en jeu dans une économie d'expansion rapide.”

De l'avis de l'avocat les mots “estimation d'avant-garde” n'étaient que des termes vagues d'ordre générique. Bien sûr, dit-il, tout le monde envisage l'avenir, mais ça ne signifie pas que la Compagnie devrait connaître un taux excessivement élevé de rendement.

Si tous les éléments mentionnés étaient pris en considération dans la détermination des tarifs, la Commission devrait procéder à l'étude de la planification économique d'une manière intense. La Commission ne pourrait pas toujours prendre en considération l'état de l'économie en tout temps, ou prévoir l'état dans lequel elle pourrait se trouver, parce qu'il serait ridicule, par exemple, d'élever les tarifs en période difficile. La Commission, selon l'avocat, doit accepter l'économie telle qu'elle est; soulignant que l'essor économique était l'affaire des autres, surtout du ressort du gouvernement.

Le professeur a aussi souligné que:

“C'est exactement ce que j'ai laissé supposer, à savoir: qu'on apporte une attention suffisante à l'expansion rapide qui semble être la perspective de l'économie canadienne.” “L'expansion”, selon l'avocat, est un terme générique qui a été attribué aux organismes de réglementation, mais la Commission devrait-elle déclarer que, afin de stimuler la croissance économique, on devrait ajouter quelque chose au taux de rendement basé sur des coûts raisonnables? La réponse de l'avocat fut négative; en effet, l'essor de l'accroissement économique a été considéré comme n'étant pas du ressort de la Commission. A cet égard, l'avocat a cité un article de Leon H. Keyserling, publié dans la revue *Encounter* dans sa livraison du 19 mai 1965, qui se rapportait au fait que la tendance périodique d'investissement dépassait de beaucoup la consommation et que le remède consistait à adopter une politique destinée à accroître la consommation plutôt qu'à encourager l'investissement privé, mais la stimulation de la demande pour les produits finis de l'industrie ainsi qu'un taux accéléré d'avancement technologique et d'automation ne contribuerait que d'une façon très minime à fournir de l'emploi en vue d'une main-d'oeuvre croissante, ou à ceux qui ont été déplacés à cause de la nouvelle technologie et de l'automation. L'avocat a indiqué qu'il n'appartient pas à la Commission d'examiner de tels problèmes ni de se charger des fonctions d'organismes tels le Conseil économique du Canada.

L'expansion de la Compagnie a été causée par la demande de service téléphonique qu'elle a dû assurer, mais la Commission n'a pas été saisie de la preuve du cas ou ayant accordé à la Compagnie le rendement minimum de 8.5% exigé sur le capital-actions, elle aurait connu une expansion importante des services autres que le service téléphonique qu'elle a dû assurer.

L'avocat de la Compagnie Bell, a déclaré l'avocat représentant les municipalités, a employé les mots suivants lors de sa plaidoirie:

"... Il est essentiel que la Compagnie conserve une situation financière solide."

"... que le rendement à ses actionnaires lui permette de réunir des fonds à un taux raisonnable sur le marché."

"... Les trois organismes voient un intérêt à long terme du fait que la Compagnie maintienne un record d'expansion et de rendement."

Selon l'avocat des municipalités ces termes étaient assez vagues; car la Compagnie a maintenu une situation financière solide dans le passé, le rendement lui a permis de réunir des fonds, et elle a de plus maintenu un record d'expansion et d'efficacité.

En ce qui concerne les autorités juridiques citées par l'avocat de la Compagnie Bell en vue d'appuyer sa situation, l'avocat des municipalités n'a pas cru qu'il apportait des faits à l'appui de cette situation. L'affaire de la Cour suprême (38 C.R.C. 27, à la page 37), contenait une clause particulière quant à savoir si les tarifs étaient en accord avec les dispositions du décret de la Commission. À la page 37, la Cour a énoncé les effets du décret de 1925, comme il suit:

"Le décret de 1925 confère d'abord à la Commission des pouvoirs de caractère absolu, afin de fixer, de déterminer et de mettre en vigueur des taux justes et raisonnables, et de changer et de modifier les taux au fur et à mesure que les conditions changeantes ou les coûts de transport le requièrent à l'occasion, par dérogation aux dispositions de l'article 3 de la Loi sur les chemins de fer,..."

L'avocat des municipalités a indiqué qu'il avait souligné le mot "pouvoir", mais que le seul fait que la Commission jouissait de tels pouvoirs ne signifiait pas que, dans l'exercice de ces dits pouvoirs, elle pourrait, lors de délibérations, prendre en considération la planification économique ou l'essor de l'économie. La Commission ne pouvait pas, selon la plaidoirie de l'avocat, exercer ses pouvoirs d'après une disposition impropre.

Quant à la citation de la décision de la Commission en date du 10 octobre 1958 (78 C.R.T.C. 1, à la page 8), l'avocat a noté qu'elle se trouvait à l'article 3 intitulé:

“RÉSUMÉ DES TÉMOIGNAGES ET DES REQUÊTES”, et sous la rubrique “(i) Témoignage à l’appui de la demande”. L’avocat a indiqué qu’il supposait à première vue que ce qui suivait par la suite était un résumé des arguments de la Compagnie, et d’aucune manière une décision ni une déclaration de la part de la Commission. Quoique l’avocat représentant la Compagnie Bell ait déclaré qu’il avait vérifié le dossier et qu’il n’avait pas fait de déclaration, et qu’il avait affirmé que c’était une déclaration de la Commission, l’avocat des municipalités a toutefois indiqué qu’il était possible que ce fut une évaluation générale de la situation de la Compagnie faite par la Commission, ou même une déclaration faite par la Compagnie ou un de ses témoins. Rien n’indiquait que c’était une décision de la Commission, et si on avait supposé que les termes employés par la Commission étaient l’expression de sa pensée, les termes indiquaient seulement que la Commission doit considérer le résultat général avant d’apporter ou de refuser un soulagement financier. Mais, le fait d’examiner les résultats généraux, alléguait l’avocat, n’implique pas que la Commission doive s’engager à entreprendre la planification économique ou à donner de l’essor à l’économie.

L’avocat a remarqué que l’avocat représentant la Compagnie Bell avait dit:

“Que la Commission était au courant des études entreprises par le Conseil économique et par les organismes similaires en ce qui concerne les étapes à franchir afin de réaliser une économie prospère au Canada. L’importance du rôle joué par un élément aussi important que la Compagnie Bell ne peut être ignoré dans l’élaboration d’une telle estimation.”

Il est certain, a déclaré le représentant des municipalités, qu’on ne peut déduire de celà que la Commission devrait revendiquer les fonctions de Conseil économique et des organismes similaires. L’avocat représentant la Commission Bell a aussi affirmé:

“Il ne s’agit pas seulement de la situation financière de la Compagnie, mais des mesures d’avant-garde que la direction doit prendre et dont la Commission doit être saisie dans le cas où un élément aussi important que la Compagnie dans l’expansion et le rendement de l’économie canadienne ne doit pas relever des fonctions de l’État.”

L’avocat représentant les municipalités a indiqué que ces déclarations étaient vagues et dénuées de sens. Il a dit que l’avocat représentant la Compagnie Bell avait admis que la Compagnie avait incité la Commission à accepter de déterminer les tarifs afin de promouvoir l’expansion et le rendement de l’économie canadienne, et le représentant de la Compagnie Bell a ajouté:

“Il est évident, que les attributions de la Commission ne comprennent pas celles qui ont rapport avec la planification économique. Il est également vrai que la Commission dans l’exercice de ses pouvoirs afin de déterminer des taux justes

et raisonnables doit prendre en considération toutes les conséquences de ses décisions.”

L’avocat représentant les municipalités était d’accord sur le fait que la Commission avait le droit de considérer l’économie, mais telle qu’elle était, et que les mots “les conséquences de ses décisions” ne pouvaient être interprétés de manière à signifier que la Commission avait le devoir de stimuler ou d’affecter l’économie canadienne par l’établissement des tarifs.

Pour conclure, l’avocat représentant les municipalités a indiqué qu’il avait examiné deux textes se rapportant à l’économie et à la réglementation des services d’utilité publique, (*Public Utility Economics* (1964), par Garfield et Lovejoy, et *Ruling Principles of Utility Regulation and Rate of Return, Supplement A*, par Nicholls et Welch), et il n’avait trouvé aucun passage qui indiquait qu’il était du devoir d’un organisme de réglementation de stimuler ou de promouvoir l’expansion économique. Il a aussi cité des passages tirés de *Principles of Public Utility Rates*, (1961), par Bonbright, à l’effet que les services d’utilité publique pourraient être plus avantageusement offerts comme service selon le principe général de coût plutôt que selon le prix visant un objectif particulier en vue du bien-être public et en outre que le remaniement de l’économie nationale n’était que du ressort d’un organisme de réglementation.

(9) Impôt sur le revenu et allocations du coût en capital:

L’avocat a fait observer que, pendant quelques années jusqu’en 1958, la Compagnie avait profité des allocations du coût en capital, déduisant ainsi un montant d’impôt sur le revenu plus élevé qu’elle ne l’aurait fait en se conformant à l’amortissement constant à fins d’impôt. Le produit ou différence, résultant de l’emploi des deux méthodes fut versé à un compte de dégrèvement d’impôt différé au lieu d’être versé à l’impôt. Cette question a été abordée par l’avocat des municipalités lors de l’audience sur les tarifs en 1958, les municipalités soutenant que le produit devrait être versé à l’impôt afin d’empêcher l’augmentation des tarifs. Lors de l’appel de la décision de la Commission devant le Gouverneur général en Conseil, l’appel a été confirmé et a eu pour effet de permettre le versement du produit à l’impôt. La Compagnie toutefois a déjoué cette mesure en retournant à l’amortissement constant pour fins d’impôt; elle avait refusé les allocations du coût en capital dont elle aurait pu se prévaloir et a ensuite fait une demande auprès de la Commission en vue d’une augmentation des tarifs. A cette demande s’est opposé l’avocat des municipalités, qui a soutenu qu’un service public devrait essayer d’épargner autant d’impôt sur le revenu que possible. La Commission avait démontré que la Commission n’avait pas besoin de se prévaloir de la déduction pour amortissement et, en seconde instance devant le Gouverneur général en Conseil la décision de la Commission a été maintenue.

Ainsi, déclara l'avocat, la Compagnie Bell n'a pas réclamé d'allocations du coût en capital depuis 1958, allocations qui auraient représenté un capital échappant à l'impôt de quelque \$12 millions annuellement. L'avocat a déclaré que les municipalités estimaient maintenant que la Compagnie devrait réclamer de nouveau les allocations du coût en capital, déposant le produit au compte de dégrèvement d'impôt différé comme par le passé. Les municipalités se seraient trouvées dans de meilleures conditions en acceptant la méthode de versement à l'impôt qui avait été approuvée par le Gouverneur général en Conseil, mais leur situation a empiré du fait que la Compagnie ne réclamait pas d'allocations du coût en capital. La seule solution possible pour la Compagnie était de réclamer les allocations du coût en capital accessibles, déposant le produit à un compte de dégrèvement d'impôt différé. Cela fournirait un montant considérable de capital échappant à l'impôt et les abonnés en profiteraient étant donné qu'aucun taux de rendement ne serait acquis sur un tel capital échappant à l'impôt.

L'avocat a conclu en déclarant que dans le cas où un appel devant le Gouverneur général en Conseil était nécessaire pour obtenir l'approbation de la méthode d'impôt différé, il conseillerait à ses clients, dans le cas où on le consulterait, d'appuyer un tel appel ou du moins, de ne pas s'y opposer.

(10) La structure financière de la Compagnie:

L'avocat a émis l'opinion que le prorata de la dette de la Compagnie devrait être porté à un minimum de 50 p. 100 afin de réaliser des économies dans les coûts en capital, parce que le capital emprunté coûterait beaucoup moins cher à l'abonné. Si la théorie de la Compagnie était acceptée, le capital-actions exigerait un rendement de 8.5 p. 100, impôt payé, ou de 17 p. 100, impôt non payé, en comparaison avec le coût cumulatif de la dette de la Compagnie au taux de 4.8 p. 100, ou en comparaison avec le taux de rendement de 14 p. 100, impôt non payé, qui constituerait le coût dans le cas où le taux de rendement suggéré par les municipalités serait adopté.

L'avocat a indiqué que les municipalités considéraient qu'il était de plus en plus nécessaire de réduire le coût relatif en capital des services privés d'utilité publique appartenant à des investisseurs, comme dans le cas de la Compagnie Bell, et de mettre leur coût en capital plus en accord avec les services publics étatisés lesquels étaient entièrement financés par des obligations. Il se demandait si l'abonné pouvait faire face aux coûts beaucoup plus élevés de financement par capital-actions plutôt que par obligations, surtout dans le cas où le capital-actions s'était accru non par des garanties d'émissions offertes sur le marché, mais par l'émission de droits de souscription. Le capital-actions était plus dispendieux que le capital-obligations et ce n'était pas une réponse que de dire qu'on ne devrait pas tenir compte de l'impôt sur le revenu étant donné que

quelqu'un était tenu de la payer. On ne doit pas oublier que la méthode de paiement par l'intermédiaire de la Compagnie Bell était injuste et régressive et tout à fait différente de la méthode d'impôt sur le revenu ordinaire basée sur la capacité de payer. La Compagnie n'avait pas d'autre proposition pour résoudre le problème du prorata de la dette, que de suggérer de porter le rendement de l'avoir propre à 8.5 p. 100, ou à 17 p. 100 avant l'impôt sur le revenu, aggravant ainsi le problème.

C'était, selon l'avocat, facile de démontrer les épargnes considérables que la Compagnie Bell avait réalisées en faveur de ses abonnés, dans le cas où la Compagnie devait remplacer une grande partie de son capital-actions en capital-obligations. Les objections formulées contre un prorata de dette plus élevé que 40 p. 100 étaient basées sur la tradition et sur des raisons assez subtiles. La Compagnie a apporté l'objection suivante, à savoir que si elle agissait ainsi ses obligations seraient moins bien cotées, mais on n'a pas prouvé que cela pouvait ou pourrait se produire.

Même si les obligations de la Compagnie Bell devaient baisser jusqu'à la cote suivante, ce qui ne devrait pas se produire selon l'avocat, la différence présente des rendements n'était seulement que de 0.07 p. 100, tel qu'affirmé par M. Van Scoyoc et reconnu par M. Groleau, quoique la Compagnie Bell ait démontré qu'une telle différence a été plus grande dans le passé.

Au cas où la Compagnie Bell porterait le prorata de sa dette à 50 p. 100, tel que suggéré par les municipalités, elle aurait droit à un plus haut taux de rendement et la somme disponible pour les intérêts serait encore importante. Une forte somme pour l'intérêt sur les obligations n'est pas nécessaire dans le cas d'un service d'utilité publique. La norme habituelle est le chiffre des bénéfices nets par rapport aux intérêts sur les obligations, mais des fonds importants étaient disponibles pour l'amortissement. En outre, dit l'avocat, étant donné que la Compagnie Bell a toujours obtenu des tarifs suffisants pour assurer ce que la Commission considère comme un rendement raisonnable sur les actions ordinaires, cela garantissait en soi qu'il y aurait toujours une somme suffisante pour payer l'intérêt sur les obligations et qu'il n'y avait aucun risque que le cas contraire se produise.

Lors du témoignage de M. Van Scoyoc, on s'en est pris au prorata de la dette principalement parce que le seul document qui visait à indiquer la somme nécessaire pour l'intérêt sur les obligations, englobait aussi les dividendes sur les actions privilégiées de certaines sociétés, mais la provision présente pour les intérêts sur les obligations pour l'année 1963 apparaît d'une manière précise à l'annexe 8. Le rapport de 3.1 fois les intérêts sur les obligations était tout à fait suffisant et a permis de maintenir la catégorie AA comme le passé. On ne s'en est pas pris à l'annexe 3 de M. Van Scoyoc, en ce qui concerne les proratas de dettes des autres sociétés, et de tels proratas de dettes, à l'exception de l'A.T. & T. et ses filiales, étaient bien au-dessus de ceux de la compagnie Bell du Canada. Le quotient de 5.87 à l'égard de l'intérêt

sur la dette de l'A.T. & T. en 1963, était inutilement élevé. La *British Columbia Telephone Company* a fonctionné en 1963 avec un prorata de dette beaucoup plus élevé que celui de la Compagnie Bell et avec un quotient de seulement 2.49, mais il n'a pas été prouvé que cela avait nuit. En 1963, les sociétés de l'A.T. & T. avaient un prorata de dette de 27 p. 100 et un quotient d'intérêt de 6.7, tandis que les sociétés n'appartenant pas à l'A.T. & T. avaient un prorata de dette de 46 p. 100.

La Compagnie, a dit l'avocat, ne s'est pas souciée de faire appel au témoignage d'un courtier en placement de l'extérieur pour savoir s'il ne serait pas souhaitable de hausser le prorata de dette à 50 p. 100. À cet égard, l'avocat a cité ce qui suit de *Security Analysis*, (4^e édition, 1961), de Graham, Dodd, Cottle et Tatham:

"Il est évident qu'à l'intérieur des limites de la variation de la structure financière des services publics d'électricité telle qu'elle apparaît présentement, cet élément de dette a eu un effet peu important sur les multiplicateurs de recettes et fut même complètement submergé par les autres déterminants. . .

"Ces chiffres indiquent que ni les structures financières ni le rapport de versement n'ont joué un rôle dans l'établissement du rapport du prix à l'égard des recettes pour les deux catégories inférieures." (pages 544-5).

L'avocat a conclu en suggérant que, en ce qui concerne le prorata de dette, la Commission pourrait bien consulter des courtiers en placement pour obtenir une opinion impartiale, à savoir s'il serait nuisible à la Compagnie Bell de hausser le prorata de dette à 50 p. 100, particulièrement dans le cas où elle pourrait obtenir un taux plus élevé de rendement à cause d'une prétendue augmentation des risques.

(11) Réglementation – Le rôle d'un *ombudsman* dans les services d'utilité publique:

L'avocat a déclaré qu'il avait toujours estimé qu'on devait prévoir qu'une certaine partie des frais de contestation d'un tarif proposé devrait être à la charge de la Compagnie dans le cadre de ses frais. En vertu de l'article 62 de la Loi sur les chemins de fer, la Commission avait des pouvoirs sur les frais, mais dans le cas où la Commission aurait estimé qu'elle n'avait pas un tel pouvoir, l'avocat a estimé que la Commission pourrait proposer une modification de la Loi.

La contestation des taux proposés a soulevé maintes difficultés. Quoique la Commission ait publié des avis au sujet de tels cas en donnant un délai suffisant, les avocats ont souvent été nommés trop tard par l'intimé et bien des cas ne furent pas contestés. L'avocat a déclaré qu'il était vrai que la Commission était

chargée de décider des questions en litige entre la société requérante et le public en vue de l'intérêt du public, mais il pensait qu'il était difficile pour la Commission d'agir à la fois comme juge et arbitre pour la société dans l'intérêt du public, à moins que tous les aspects du cas, y compris les témoignages contradictoires, ne soient exposés.

Selon le point de vue de l'avocat, il y avait deux solutions au problème. L'une des solutions consistait à demander (comme c'est le cas aux États-Unis,) à des témoins représentant le personnel de préparer la cause du public, et de se soumettre à un contre-interrogatoire comme le font les témoins représentant la société, et de confier à l'avocat de la Commission la tâche de contre-interroger tous les témoins. Cette méthode, toutefois, placerait la Commission et les témoins dans une situation anormale. Les témoins représentant le personnel ferait partie de la Commission, bien que pour les fins de la cause ils seraient considérés comme n'en faisant pas partie et sujets au contre-interrogatoire; la Commission aurait la pénible tâche de choisir entre les témoins représentant le personnel et les témoins représentant le demandeur.

L'autre solution, la meilleure selon l'avocat, était la suivante, à savoir que la Commission recommande au gouvernement du Canada qu'on établisse un nouveau ministère, qui se nommerait le ministère de l'*ombudsman* des services d'utilité publique, qui aurait à tenir compte des tarifs proposés, recueillir des témoignages, interroger contradictoirement et plaider la cause au nom du public. Il s'agirait d'un ministère permanent comprenant des spécialistes, des comptables et des économistes, qui aurait le pouvoir de faire appel à des témoins de l'extérieur pour représenter le public.

L'avocat a terminé sa plaidoirie en soumettant à la Commission un certain nombre d'articles traitant des problèmes du règlement.

(12) Le niveau autorisé de bénéfices de la Compagnie

L'avocat a fait observer qu'il y avait une grande différence entre la plaidoirie de la Compagnie en date du 28 novembre 1964 à propos du taux de rendement et des nouvelles demandes qu'elle avait faites lors de son plaidoyer. Au cours de sa plaidoirie, la Compagnie avait simplement déclaré:

"Dans des circonstances prévisibles, un taux de rendement d'environ 7 p. 100 sur l'ensemble du capital investi dans la Compagnie serait considéré juste et raisonnable."

Ces 7 p. 100 du capital total seraient équivalents à 8.5 p. 100 du capital-actions en 1964, mais lors de son témoignage M. Groleau a proposé plus de 9 p. 100 et a déclaré:

"Les bénéfices de la Compagnie sur le capital-actions devraient être comparables au niveau atteint par les sociétés qui ont maintenu la stabilité

des investissements de leurs actionnaires... ceux-ci ont en effet retiré en moyenne 11.7 p. 100 sur le capital-actions."

M. Groleau a aussi approuvé, non seulement un taux de rendement autorisé, mais une échelle allant jusqu'à 8.5 p. 100 du capital-actions comme plafond inférieur et l'avocat représentant la Compagnie Bell, à la fin de sa plaidoirie, a proposé à la Commission de voir si a) le rendement du capital total, obtenu en 1964, n'excédait pas un niveau juste et raisonnable; et si b) un tel rendement pour l'année 1964 n'atteignait pas le plafond supérieur de l'échelle autorisée. En d'autres termes, a déclaré l'avocat représentant les municipalités, on a proposé une base, mais aucun plafond.

L'avocat a signalé que lors des délibérations en cours on traitait du rendement réel pour l'actionnaire et non du rendement apparent. Par rendement apparent on entendait le rendement de l'ensemble du capital, mais il ne faut pas oublier que le rendement effectif pour l'actionnaire était beaucoup plus élevé que cela. L'actionnaire ne bénéficiait pas seulement des bénéfices réinvestis de *Northern Electric*, qui lui étaient applicables et qui pouvaient lui être versés, mais il recevait aussi les gains de capitaux exempts d'impôts résultant de ses droits, qui, selon l'avocat, s'élevaient à 2 p. 100. C'est pourquoi, au dire de l'avocat, la vraie question dans ces cas était de savoir si les actionnaires devraient bénéficier du 9 p. 100, (c'est-à-dire 7 p. 100 de rendement sur le capital-actions, en ajoutant la valeur des droits de 2 p. 100) ou de 10.5 p. 100, (c'est-à-dire 8.5 p. 100 sur le capital-actions et la valeur des droits de 2 p. 100).

La suggestion de la Compagnie en vue d'établir une base sans plafond a été appuyée, comme l'avocat l'a indiqué, par un seul précédent, à savoir: la décision de la *Federal Communications Commission* des États-Unis. Lors de cette affaire, a déclaré l'avocat, la Commission avait négocié avec l'*A.T. & T.* afin d'obtenir une diminution des tarifs interurbains, ce qui a eu pour effet d'établir le taux global de rendement à 7 p. 100 au lieu du taux antérieur de 7.5 p. 100. La Commission n'a naturellement pas établi le taux réduit comme limite supérieure, étant donné que les réductions étaient attendues et qu'elles devaient entraîner des recettes plus élevées et que le taux antérieur de 7.5 p. 100 n'avait pas été contre-carré. La Commission, en outre, ne fixait pas un taux de rendement et elle n'avait donc pas l'autorité de décider de la mesure que la Compagnie avait proposée à la Commission. A cet égard, l'avocat a souligné que la *Federal Communications Commission* n'avait jamais été saisie d'une affaire officielle de tarifs de la part de l'*A.T. & T.* afin de décider du taux autorisé de bénéfices. Tandis que l'avocat représentant la Compagnie Bell a émis l'opinion que la Commission devrait arriver au moins à une conclusion relativement au mémoire de la Compagnie à l'effet que ses recettes courantes ne dépassaient pas un niveau juste et raisonnable, l'avocat représentant les municipalités a démontré que cela

n'était pas du tout nécessaire. La Commission pouvait et devait autoriser un niveau de bénéfices, comme par le passé, mais sous la forme d'un taux de rendement sur le capital-actions ou sur le capital global, ou sous la forme de bénéfices par action.

L'avocat a déclaré qu'il n'était pas d'accord avec l'interprétation que l'avocat représentant la Compagnie Bell avait donnée de la citation tirée de l'oeuvre de Bonbright *Principles of Public Utility Rates*, (section 3a) (13) ci-dessus, page 119); au contraire, il était évident d'après le contexte que cette citation appuyait l'opinion de la Commission quant à l'établissement d'un taux juste de rendement, sans variations ou échelle, et que la Commission pourrait, par la suite, permettre de légères variations au-dessous de ce chiffre unique. Aux États-Unis, a déclaré l'avocat, on a dû fixer un taux de rendement qui ne soit pas inférieur aux mesures de confiscation ni supérieur à un taux raisonnable. Au cas où la Compagnie aurait gagné plus ou moins que cette rémunération à ce moment-là, la Commission aurait soit autorisé cette situation, ou bien la Compagnie aurait fait une demande afin d'obtenir un taux plus élevé, ou bien la Commission aurait réservé cette question à l'audience, en vue de fixer un nouveau taux de rendement. L'avocat a déclaré qu'étant donné qu'il n'avait pas examiné toutes les décisions des commissions des États-Unis, les seules décisions par lesquelles on avait établi deux taux de rendement étaient celles où on avait calculé ces deux taux de rendement selon deux bases tarifaires différentes, mais de tels taux ne constituaient pas un barème.

L'avocat a résumé ses objections comme suit à l'égard de la conclusion de la Commission selon laquelle le rendement du capital de la Compagnie pour 1964 ne dépassait pas un niveau juste et raisonnable et n'atteignait pas la limite supérieure de l'échelle autorisée. Fixer un taux de base laisserait croire que tout ce qui se situe au-dessus est juste et raisonnable, étant donné qu'il n'y aurait pas de limite. Les investisseurs estimerait par là qu'ils ont le droit de faire appel à la Commission pour obtenir de tels taux qui maintiendraient non seulement le niveau de base des bénéfices, mais aussi tous bénéfices supérieurs qui pourraient être réalisés par la Compagnie. Les investisseurs croiraient en outre que la Commission n'interviendrait pas lorsque le taux de rendement du capital-actions aurait atteint 8.5 p. 100. Le fait de fixer une base sans déterminer de plafond entraînerait la confusion et la spéculation, parce que le public ne comprendrait pas la raison d'être d'une telle mesure. Dans le cas où la Commission interviendrait, par la suite, pour fixer un taux de rendement inférieur à celui qui devrait être en vigueur dans l'avenir, même si ce taux était trop élevé, la Compagnie démontrerait que cela a abaissé d'une manière incroyable le prix du marché et diminué son pouvoir d'attraction pour réunir des fonds. Aucune commission n'a, autant que l'avocat le sache, fixé un taux de rendement d'une telle manière, d'une manière qui équivaldrait pour la Commission à perdre le

droit de regard sur les bénéfices d'une compagnie réglementée. L'incertitude qui en résulterait entraînerait des fluctuations et une instabilité telle que les actions de la compagnie, perdraient leurs caractéristiques de stabilité et de titre à revenu. Cette situation encouragerait l'intervention du gouvernement et appuyerait ceux qui sont en faveur de l'étatisation. Cela entraînerait une demande d'augmentation des tarifs à courte échéance et la Commission aurait des difficultés à refuser une telle demande après avoir établi un taux de rendement illimité. Quoique la Compagnie ait déclaré qu'elle n'avait pas l'intention de mettre en application immédiatement une telle constatation en vue d'obtenir des tarifs plus élevés, elle serait libre de le faire dans un avenir plus ou moins rapproché lorsque des bénéfices plus élevés justifieraient des tarifs plus élevés. L'établissement d'un taux de base sans plafond n'était pas juste et raisonnable, parce qu'on n'avait pas décidé en quoi consistait une rémunération véritable raisonnable à l'époque par rapport au tarif existant ou proposé. La mise en application d'une telle mesure permettrait de bénéficier d'une rémunération future qui ne serait pas juste et raisonnable.

Quant à la question d'un taux raisonnable, l'avocat s'est reporté à la page 118 de l'œuvre de Garfield et Lovejoy *Public Utility Economics*, qui indique que cette idée générale a été exposée dans l'affaire des tarifs du téléphone du Wisconsin, mais l'avocat a signalé qu'on avait fixé un taux particulier de rendement dans les limites d'un barème raisonnable, avec la possibilité d'effectuer de légères variations ascendantes ou descendantes par la suite sans l'intervention de la Commission. C'est ainsi que l'avocat a supposé que la Commission fixerait, comme par le passé, un taux de rendement particulier autorisé.

L'avocat a déclaré qu'il était du ressort de la Compagnie de prouver qu'on devait apporter un changement à la situation actuelle et de déterminer la portée d'un tel changement, mais elle n'a pas apporté de preuve quant à la nature du taux de rendement nécessaire. La Compagnie a indiqué le taux de rendement désiré, mais n'a pas apporté de preuve quant aux frais de capital. Elle s'est appuyée seulement sur la comparaison de bénéfices des services d'électricité et d'autres sociétés qui ne sont pas comparables selon l'avocat.

Selon l'avocat, la réglementation devrait être basée sur les frais de service, y compris les frais de capital. Dans une industrie concurrentielle, les produits étaient vendus au coût marginal et le prix de concurrence était donc beaucoup plus élevé que le coût moyen; les services d'utilité publique, d'autre part, basaient leur prix sur le coût moyen. Par le passé, a déclaré l'avocat, la Compagnie Bell avait limité à l'extrême son expansion en insistant sur le fait que la rémunération était calculée de si près par action, que lorsque le capital-actions augmentait le rendement diminuait. Ainsi un changement de pourcentage sur le capital-actions, même au niveau de 7 p. 100 proposé par les municipalités, entraînerait une plus grande expansion. La Compagnie a aussi limité la vente de

ses actions à ses employés et à ses actionnaires à des prix beaucoup plus bas que ceux du marché. A cet égard, l'avocat a souligné que Bell dans son rapport annuel, n'a pas inclu le rendement du capital-actions. En outre, la Compagnie n'a pas averti ses investisseurs de la valeur des droits d'achat de ses actions. En tenant compte des droits, l'avocat a déclaré que la Compagnie Bell versait en réalité 9 p. 100 de rendement à ses investisseurs, dont seulement 7 p. 100 apparaissaient comme bénéfiques. A première vue, cela a réduit les bénéfices et l'expansion du capital-actions, quoique les investisseurs aient bénéficié d'un plus haut rendement.

Selon l'avocat, des taux élevés de rendement se retrouvaient dans toutes les industries et devaient être soigneusement examinés. Dans le cas où les taux sont trop élevés les consommateurs sont obligés de contribuer à la formation du capital et non simplement au rendement sur le capital. Il y avait lieu de croire que l'inflation était, en fait, causée par des taux de rendement plus élevés que ne le dicterait une saine économie. Quant au taux de rendement de la Compagnie Bell, l'avocat indiquait que la Commission devrait le fixer comme pourcentage sur les actions ordinaires, ou comme bénéfices par action, et non comme pourcentage de tout le capital investi. Cela éviterait le risque de rendement. Dans le cas d'un pourcentage sur le capital total, les actionnaires bénéficieraient de taux d'intérêt moins élevés, tandis que les abonnés qui doivent toujours payer davantage quand les taux augmentent en bénéficieraient. On doit tenir compte du fait que le coût des actions ordinaires est beaucoup plus élevé que celui des obligations, pour des questions d'impôt, lorsqu'il s'agit de fixer un taux de rendement pour la Compagnie. Un tel taux de rendement devrait favoriser l'affluence des capitaux, mais non un taux plus élevé qui attirerait des fonds plus facilement mais à un coût plus élevé qu'il ne serait raisonnable ou nécessaire.

L'avocat a déclaré que les municipalités étaient grandement préoccupées du fait que, dans le cas où la Compagnie obtiendrait un taux de rendement plus élevé, et si elle était incapable, conformément au taux actuel, d'obtenir ce rendement, elle s'adresserait à la Commission pour obtenir des tarifs plus élevés nécessaires à l'obtention d'un tel rendement. Après avoir fixé ce taux de rendement, il serait plus difficile pour la Commission de refuser à la Compagnie des tarifs déjà en vigueur. En outre, les municipalités n'étaient pas du tout satisfaites de l'assurance que leur a donné la Compagnie concernant l'augmentation possible des tarifs. L'avocat représentant la Compagnie Bell avait déclaré que les objectifs de la Compagnie relativement au taux autorisé de bénéfices n'avaient pas été, et n'étaient pas, reliés à aucune augmentation possible du niveau général des tarifs, mais le seul fait que ce n'était pas un objectif n'était nullement rassurant. La Compagnie avait aussi basé la réalisation de son objectif sans augmentation du niveau général des tarifs, en partant de l'hypothèse d'un accroissement annuel du produit national brut de 5.5 p. 100, mais l'avocat re-

présentant les municipalités a déclaré que, si de telles suppositions n'étaient pas justes, la Compagnie estimerait alors qu'elle était libre de demander une augmentation des tarifs.

Le grand danger d'un taux de rendement établi sur un pourcentage, déclara l'avocat, était le pouvoir très grand du procédé de composition d'accroître les bénéfices jusqu'à ce que les limites naturelles de l'industrie arrête une telle croissance. Lorsque l'entreprise avait réussi, après une audience sur les tarifs et avant une autre, à accroître ses revenus au-delà du taux de rendement permis antérieurement, elle demandait alors que les revenus nouveaux et actuels servent de base à un nouveau taux de rendement. Elle agit ainsi sous le prétexte que les actionnaires seraient contrariés puisqu'on les avait portés à s'attendre à ce que la commission régulatrice hausserait continuellement le taux de rendement. Puisque les actionnaires demandent un bénéfice de plus en plus élevé, même si le coût du capital tel qu'indiqué par le marché est à la baisse, le seul moyen de régler fut de fixer un taux de rendement établi sur le coût du capital, tel qu'indiqué par le marché, et de laisser au marché le soin d'établir le taux de capitalisation et de l'évaluer selon ce que le service pourrait offrir.

L'avocat déclara que les critères ayant été considérés dans le passé par les évaluateurs étaient les suivants:

a) des revenus comparables sur le capital-actions ordinaire, (c.-à-d. sur la valeur comptable), ces revenus comparables étant ceux de compagnies en face de risques et d'incertitudes similaires;

b) la proportion des bénéfices correspondants au produit net de la vente d'actions par émissions; (ceci ne s'appliquait pas à Bell puisqu'elle n'avait jamais vendu par émission);

c) la proportion des bénéfices correspondants au produit net d'émissions de droits aux actionnaires, mais ceci ne ferait que démontrer le coût maximum du capital, le prix étant fixé plus bas que celui du marché;

d) le rapport bénéfices prix (c.-à-d. la proportion des bénéfices correspondants au prix du marché), ajustée au financement des dépenses, des poussées du marché et d'un facteur de sécurité;

e) les rendements permis par d'autres commissions, ajustés selon les différences dans le risque encouru, les différences d'emplacement, etc.; et

f) le rendement nécessaire pour attirer l'investissement.

Au sujet des compagnies courant des risques similaires, l'avocat déclara que la compagnie n'avait pu prouver que ses comparaisons étaient conformes aux critères du cas *Bluefield*, à savoir, un rendement égal à celui produit au même moment dans une même région du pays sur des investissements dans d'autres entreprises industrielles qui sont accompagnées de risques et d'incertitudes correspondants et, en

second lieu, qu'elle n'avait aucun droit constitutionnel à des revenus comme ceux réalisés par des entreprises hautement rémunératrices ou par des opérations spéculatives. Les comparaisons établies par la Compagnie étaient complètement inacceptables aux fins d'établissement du tarif, parce que: a) elles comparaient les moyennes de plusieurs compagnies avec une seule, la Compagnie Bell, et ne montraient pas les variations dans les bénéfices de ces autres compagnies ni si les compagnies avaient été soustraites ou ajoutées à celles comprises dans la moyenne; b) elles ne firent pas la comparaison entre les différentes caractéristiques, risques ou incertitudes; c) elles n'indiquaient pas si les rendements étaient sur une base consolidée ou non; d) elle n'indiquaient pas les différences dans la structure du capital ou les conséquences de leur emplacement dans des régions différentes du pays; e) elles n'indiquaient pas si des méthodes libéralisées d'amortissement avaient été employées ou non; f) elles n'indiquaient pas les bénéfices sur une base comparable, les bases comptables différentes, etc., n'étant pas indiquées; g) elles n'indiquaient pas les proportions des dividendes et les rapports des bénéfices versés; h) les revenus effectifs ne furent pas mentionnés comme étant justes et raisonnables; i) elles n'indiquaient pas jusqu'à quel point les bénéfices actuels dépassaient ceux fixés par les commissions régulatrices intéressées, ni ne décrivaient l'attitude régulatrice pour chacune d'elles; j) les bénéfices effectifs n'indiquent pas ce qu'on pourrait permettre aux compagnies de gagner; k) la preuve ne fut pas faite pour savoir si les bénéfices mentionnés ne venaient pas d'entreprises hautement rémunératrices ou d'opérations spéculatives; l) les moyennes de bénéfices effectifs sont des critères inadéquats et les détails de chaque compagnie n'étaient pas donnés; m) lorsque d'autres entreprises d'utilité publique étaient comparées avec Bell, on n'indiquait pas si la base de taux était le coût original, le coût de reproduction, ou une valeur équitable; n) la preuve ne fut pas faite pour savoir si le rendement était plus haut ou plus bas que nécessaire pour attirer l'investissement; o) il existait des motifs spécifiques pour lesquels les entreprises de téléphone ne peuvent être comparées à celles de l'électricité; et p) les compagnies américaines et canadiennes ne peuvent être comparées quant aux revenus, parce qu'elles étaient situées dans des régions différentes du continent et parce que, historiquement, les revenus américains sont plus élevés. Pour toutes ces raisons, déclara l'avocat, il était évident que les comparaisons établies par MM. Morton et Groleau étaient inacceptables.

L'avocat déclara que même en supposant que la comparabilité eût été un facteur dans le cas du témoignage de M. Morton, ce dernier aurait dû apporter un certain nombre de rectifications à ses données. M. Morton avait pris les revenus de 10.74 p. 100 de la *F.P.C. Electrics* et avait déduit 20 p. 100 pour atteindre 8.5 p. 100 pour la Compagnie; il en était arrivé à la même conclusion d'une façon différente lorsqu'il avait pris le rendement de 7.68 p. 100 moins 20 p. 100, et

l'avait divisé par un rapport de bénéfices versés de 71.5 p. 100 pour la *F.P.C. Electrics*. M. Morton, toutefois, aurait dû faire les autres rectifications suivantes. Il aurait dû déduire au moins un autre 7 p. 100 car le prorata de la dette de Bell était de 40 p. 100 tandis que celui des entreprises d'électricité était d'environ 50.2 p. 100. A ce propos, l'avocat remarqua que, dans le cas de la *Washington Public Service Commission v. Washington Water Power Company* (33 Public Utilities Reports, 3rd. Series, page 468, (1960), M. Morton avait augmenté le pourcentage afin de mettre en évidence le prorata de dette plus élevé de la compagnie. Le même jugement stipulait que M. Morton:

“ ... n'emploie pas la plus haute proportion de paiement du défendeur. Toutefois, il emploie la proportion moyenne de paiement de l'industrie prise dans son ensemble. Le procès-verbal démontre par le témoignage de M. Kosh que le paiement de dividendes a une conséquence importante sur le coût de l'avoir propre. Si M. Morton doit mettre en évidence la structure du capital du défendeur, il semblerait que la même logique justifierait la mise en évidence de la proportion du paiement de dividendes du défendeur. Ce correctif nécessaire et évident à l'exposé de M. Morton se trouve dans la pièce justificative 14... emploie la proportion historique moyenne de paiement du défendeur.”

L'avocat fit remarquer que M. Morton avait omis d'apporter un tel correctif aux délibérations présentes; puisque la proportion moyenne de paiement de *Electrics* employée par M. Morton était de 7.15 p. 100, donnée plus basse que celle de Bell, un tel correctif abaisserait de beaucoup le pourcentage préconisé par M. Morton. Aucun correctif n'avait été fait en considération du fait historique que le rendement canadien était moindre que le rendement américain et aucun correctif n'avait été fait en faveur des droits.

L'avocat déclara qu'il ne connaissait aucun cas aux États-Unis, aucun cas récent particulièrement, où l'on avait approuvé la comparabilité entre les compagnies de téléphone et des entreprises d'électricité, où la comparabilité avec des compagnies non réglementées. Il convient de noter que la Compagnie Bell, dans sa plaidoirie, n'avait pas fait mention d'un seul cas pour appuyer de tels critères de comparabilité, alors que l'avocat déclara qu'il pourrait mentionner plusieurs cas qui rejetaient complètement une telle comparabilité.

Pour appuyer sa plaidoirie, l'avocat mentionna les cas suivants:

a) *Pennsylvania Public Utilities Commission v. York Telephone & Telegraph Co.*, (1963) 53 P.U.R., 3 rd., page 146, dans lequel l'avocat déclara que M. Morton avait été le principal témoin de la compagnie et dans lequel la Commission avait complètement rejeté l'élément de comparabilité;

b) *Washington Public Service Commission v. Washington Water Power Co.*, (1960), 33 P.U.R., 3 rd., page 468;

c) *Supreme Court of California in re Pacific Telephone & Telegraph Co.*, qui confirmait la décision de la Commission de Californie, sauf en ce qui a trait à la rétroactivité des remboursements;

d) *United Gas Pipeline Co., v. Louisiana Public Service Commission*, (Cour suprême de Louisiane), 49 P.U.R., 3rd., page 349;

e) *Re Diamond State Telephone Co.*, (une cause de la Commission du Delaware) 21 P.U.R., 3 rd., page 417, dans lequel M. Morton était témoin;

f) *Re General Telephone & Telegraph*, (une cause de la Commission de Washington), (1959), 30 P.U.R., 3 rd., page 145;

g) *Re New England Telephone & Telegraph Co.*, (une cause de la Commission du Massachusetts), (1958), 22 P.U.R., 3 rd., page 470;

h) *Federal Power Commission v. Tennessee Gas Transmission Co.* (1960), 35 P.U.R. 3 rd., page 270, à la page 275;

i) *Public Service Commission of the District of Columbia v. Chesapeake & Potomac Telephone Co.*, (1964), Cas formel N° 494, non encore référé;

j) *Louisiana Public Service Commission v. United Gas Pipeline Co.*, (1960), 34 P.U.R., 3 rd., page 78;

k) *Maryland Public Service Commission in re Potomac Telephone Co.*, (1964), non encore référé; et

l) *Washington Public Service Commission v. Pacific Power & Light Co.*, (1960), 33 P.U.R., 3 rd., page 433, une cause dans laquelle M. John K. Langum, témoin de Bell dans l'audience sur les tarifs de 1958, était le témoin de la compagnie.

L'avocat se référa aussi à un article de David A. Kosh, expert conseil du service public à Washington, D.C., dans *Public Utilities Fortnightly*, du 26 septembre 1963, Vol. 72, N° 7, intitulé "Recent Trends in the Cost of Capital". L'avocat déclara que cet article justifiait entièrement l'application de la théorie du rapport bénéfices-prix au taux de rendement; il mentionna aussi que M. Kosh était le témoin de la société dans la dernière cause mentionnée au paragraphe plus haut.

Selon l'opinion de l'avocat, même s'il pourrait être dit que la réglementation devrait aller de pair avec les effets de la concurrence, il incombait à la compagnie de prouver qu'une concurrence libre et sans contrainte existait dans les compagnies non réglementées citées par elle, et que de telles entreprises pouvaient se comparer à la Compagnie quant aux risques, aux incertitudes et autres caractéristiques. Ceci n'avait pas été démontré par la Compagnie et, dans l'avis de l'avocat-conseil, la Commission devait supposer qu'il n'existait qu'une faible

concurrence au Canada. Pour appuyer cette opinion, l'avocat-conseil cita un article de M. R.M. Fowler, intitulé "*The Future of Competition in Canada*", en page 63 de *The Canadian Economy: Selected Readings*, édité par J.J. Deutsch.

Plusieurs des comparaisons produites par la Compagnie, déclara l'avocat-conseil, s'étendaient sur de longues périodes allant de 1947 ou 1949 à 1963. Comme résultat, les moyennes furent plus élevées parce que les revenus des entreprises autres que celles d'utilité publique furent beaucoup plus élevés dans le passé qu'au cours de ces dernières années. Comme exemple, la pièce N° B-63 de M. Groleau, concernant la période de 1949-1958, indiquait des revenus moyens d'environ 15 p. 100 pour les autres compagnies, comparées à 6.6 p. 100 pour Bell. Donc, au moment de l'audience sur les tarifs de 1958, la Commission avait pris la base la moins élevée au compte de Bell. Entre 1959 et 1963, toutefois, le taux de rendement des entreprises autres que celle d'utilité publique était tombé d'environ 15 p. 100 à environ 10 p. 100, tandis que le taux de rendement de la Compagnie Bell était monté à 7 p. 100. Donc selon l'opinion de l'avocat-conseil, il était raisonnable de s'attendre que les bénéfices des industries autres que celles d'utilité publique, n'ayant aucune réglementation pour maintenir leurs bénéfices à la hausse, baisseraient plus rapidement que les bénéfices de la Bell.

En ce qui concerne la pièce n° B-95 de la Compagnie, indiquant que le rendement de tout le capital investi pour 12 compagnies de téléphone américaines pour la période allant de 1960 à 1964 se situait entre 7 p. 100 et 7.2 p. 100, l'avocat-conseil remarqua que ladite pièce ne donnait pas le rendement du capital-action. Il fit observer que, au Canada, le rendement devrait être plus bas, à cause de la différence historique dans les revenus et du dégrèvement pour dividendes. Les bénéfices stipulés dans cette pièce étaient les bénéfices effectifs et il n'était pas fait mention des taux de rendement fixés par les commissions régulatrices intéressées, ni du genre de base tarifaire employé par ces commissions.

L'avocat fit remarquer que l'avocat de la Compagnie Bell avait déclaré qu'on devait donner à la Compagnie l'occasion d'obtenir des bénéfices à un niveau comparable à celui des industries avec qui elle entre en concurrence, sinon elle perdrait la force et la capacité financières que requiert le service d'intérêt public. L'histoire antérieure et la position présente de la Compagnie, toutefois, viennent complètement en opposition avec cette thèse. Les rapports bénéfices prix de Bell, indiqués dans la pièce n° CM-2 annexe 9, avaient à peine dépassé 5 p. 100 durant les 12 dernières années et s'établissaient à une moyenne de 5.5 p. 100. Si les arguments de Bell étaient valides demandait l'avocat, alors pourquoi le rapport bénéfice prix n'était-il pas monté beaucoup plus haut?

Quant à l'argument que les compagnies de téléphone couraient beaucoup plus de risques que les entreprises d'électricité, l'avocat-conseil déclara qu'il était incapable de comprendre ceci parce que les entreprises d'électricité pouvaient

rapporter un taux de rendement plus élevé. Dans l'audience sur les tarifs de 1958, M. Langum, l'économiste américain à qui Bell fit appel, avait témoigné que cinq puissantes entreprises d'électricité canadiennes avaient eu, en 1956, un taux de rendement moyen de 10.69 p. 100 sur les actions ordinaires. Si la Commission avait jugé inutile de se servir de revenus comparables de cette sorte en 1958, déclara l'avocat-conseil, elle ne devrait pas le faire non plus aujourd'hui.

En ce qui concerne la question des similitudes de risque et de la structure du capital, l'avocat-conseil de Bell avait soutenu que les risques tendaient à être compensés par les différences relatives aux structures financières et que, puisque les structures financières différaient, Bell devrait gagner autant que les entreprises industrielles. Il n'y eut pas, toutefois, de preuve démontrant quelles étaient ces structures, et de quelle façon elles variaient d'une industrie à l'autre; il n'y eut pas de preuve démontrant comment les risques devaient être corrigés par suite de ces prétendues différences; et rien dans ces documents ou les jugements rendus par les commissions ne permettrait de procéder à de tels correctifs. M. Morton avait tenté de soulever cette objection dans le *Pennsylvania Commission case in re York Telephone & Telegraph Company*, 53 P.U.R., 3 rd., page 146 à page 169, et cette Commission, après avoir cité le cas Bluefield, avait déclaré:

"A notre point de vue tous les risques et incertitudes inhérents aux entreprises industrielles ne correspondent pas à ceux que l'on trouve dans les entreprises de service public en général, ou du défendeur en particulier, et Morton acquiesce. Il soutient, toutefois, que les différenciations dans les risques encourus sont justifiées par les différences de structure financière et les rapports du paiement de dividendes, mais il admet que ni l'un ni l'autre de ces rapports ne mesure l'étendue du risque. Il concède aussi que la même proportion d'actions ordinaires n'a aucunement la même signification, pour ce qui est du coût, dans une entreprise de service public par rapport à une entreprise industrielle.

"Les statistiques financières du marché traduisent la concurrence qui se joue pour le capital, et, par conséquent, le coût du capital-actions, fondé sur l'évidence du marché traduit non seulement l'évaluation par les actionnaires des risques et incertitudes relatifs des compagnies de téléphone en comparaison avec les autres prises, mais exprime aussi les risques normaux de l'investissement. L'orsqu'un acheteur acquière des parts dans une compagnie de téléphone, il fait son choix à la lumière de différentes possibilités d'investissement, et les conditions dans lesquelles il achète les valeurs traduisent son point de vue quant à la certitude ou l'incertitude relative d'investir dans une entreprise public de téléphone. Il n'est pas nécessaire, par conséquent, de chercher en dehors de l'industrie du téléphone pour déterminer un coût raisonnable du capital-actions ordinaire

à l'égard du défendeur. Nous avons toujours soutenu que toutes les entreprises industrielles sont tellement différentes entre elles, et, en tant que groupe, tellement différentes de celui des services publics, qu'elles ne peuvent servir à déterminer le coût du capital en ce qui concerne un service public."

L'avocat-conseil déclara, par conséquent, qu'il n'existait aucun fondement logique ou établi par les faits pour soutenir la proposition selon laquelle les revenus de Bell devraient être les mêmes que ceux des entreprises qui ne sont pas du domaine du service public, étant donné que les structures financières étaient différentes et les risques égaux.

L'avocat-conseil déclara que les autorités appuyaient son point de vue selon lequel il n'était pas adéquat de comparer les revenus d'une compagnie de téléphone avec ceux des industries de service public d'électricité ou d'entreprises non réglementées. On se référa au jugement de la *Delaware Commission* porté dans *Ruling Principles of Utility Regulation and Rate of Return*, supplément A, par Nicholls and Welch, en page 231, et ce qui suit était énoncé en page 235:

"La Commission, dans le cas présent, refusa d'accepter comme évidence de capital-actions les données sur le coût en capital établies par un témoin de la compagnie, données fondées sur des comparaisons avec les revenus d'autres entreprises de service public. Le jugement stipulait: ainsi donc, "le système" de M. Taylor consiste, en réalité, dans la revendication de Bell selon laquelle le service d'utilité publique (General) devrait gagner ce qu'un ensemble de 23 autres entreprises de service public en dehors de l'industrie du téléphone gagnaient en fait, que les revenus soient d'un niveau supérieur, inférieur ou égal. Ainsi formulé, "le système" s'effondre."

Principles of Public Utility Rates de Bonbright spécifiait en page 259, pour ce qui est des comparaisons de revenus:

"Mais ce genre de comparaison, bien qu'étant proposable, n'apporte pas de conclusion, vu l'absence de raisons valables laissant supposer que les revenus réalisés des autres compagnies se situent dans les limites d'un taux de rémunération équitable."

Toute comparabilité avec des entreprises de service public d'électricité et d'autres compagnies, déclara l'avocat-conseil, fut refusée dans les cas suivants: le jugement de la *Louisiana Supreme Court*, 39 P.U.R., 3 rd., page 358; le cas de la *United Gas Pipeline*, 34 P.U.R., 3 rd., page 78; le cas de la *Pacific Power & Light*, 33 P.U.R., 3 rd., page 433; le cas de la *Diamond State Telephone*, 21 P.U.R., 3 rd., page 417; le cas de la *New England Telephone & Telegraph*, 22 P.U.R., 3 rd., page 470; le cas de la *General Telephone*, 30 P.U.R., 3 rd., page 145; et le cas de la *York Telephone*, 53 P.U.R., 3 rd., page 146. L'avocat-conseil déclara que, dans le cas de la *New England Telephone*, la Commission

avait déclaré que bien qu'il était vrai que les entreprises de l'électricité et celles du téléphone entraient en concurrence sur le marché du capital, il était évident au point de vue de la Commission que ces entreprises n'entraient pas en concurrence sur une même base. La Commission avait de plus déclaré que, d'après elle, les données sur les entreprises d'électricité jetaient bien peu de lumière sur le coût du capital-actions de la compagnie *New England*.

L'avocat-conseil déclara que le critère idéal pour déterminer le coût du capital, le rapport des bénéfices correspondants au produit net de la vente de parts par émissions, ne pouvait être appliqué parce que la compagnie émettait le capital-actions seulement par des ventes aux actionnaires à un prix fort inférieur à celui du marché. Le critère suivant (le troisième critère, suivant celui des bénéfices comparables et des bénéfices correspondants au produit net de la vente des actions par émissions), était le rapport des bénéfices correspondants au produit net de la vente de droits aux actionnaires, mais ceci ne ferait qu'indiquer le coût maximum du capital qui serait beaucoup plus élevé si les actions avaient été vendues à un prix se rapprochant de celui du marché. En mars 1964, la Compagnie avait vendu ses actions par des droits à \$38 l'action, les bénéfices correspondants pour 1963 étant de \$2.58 l'action, affichant ainsi un rapport de 6.7 p. 100.

Si on ajoutait 0.26 p. 100 pour le coût du financement, cette moyenne s'élèverait à 6.9 p. 100. Au moment de l'émission, le prix du marché était de \$50.875, donc le prix de l'émission ne représentait que 74.6 p. 100 de celui du marché. Si le prix de l'émission avait été établi à \$41.80, soit 10 p. 100 de plus le coût du capital aurait été celui du pourcentage le plus bas, donc 6.18 p. 100, lequel additionné à 0.26 p. 100 pour les frais de financement serait monté à 6.44 p. 100. Dans une marge de 10 p. 100 du prix du marché, ou au prix de \$45, le coût du capital aurait été de 5.99 p. 100 y compris le coût du financement. Les données précédentes, déclara l'avocat-conseil, avaient été citées dans le témoignage incontesté de M. Van Scoyoc concernant ce genre de déboursés.

L'avocat-conseil fit remarquer que les municipalités avaient produit deux pièces justificatives sur la question de la connexité entre les prix effectifs d'émission et les derniers bénéfices courants de la Compagnie. D'une part, le coefficient moyen pour la période 1955-1964 était de 6.7 p. 100 et d'autre part, la moyenne était de 6.65 p. 100 la moyenne de tous ces critères était de 6.71 p. 100 laquelle, en ajoutant le 0.26 p. 100 pour le coût du financement, donnait un chiffre de 6.96 p. 100. En partant d'une base un peu différente, c.-à-d. en employant le rapport des bénéfices les plus récents par action au prix de l'émission, M. Van Scoyoc était arrivé à un chiffre définitif de 6.74 p. 100. L'avocat-conseil remarqua à ce propos que, comme il l'avait déclaré dans son témoignage, M. Van Scoyoc aurait été plus heureux s'il avait pu se servir de la vente d'actions par souscription, mais l'avocat-conseil fit remarquer que, même si le rapport bénéfice-prix

de l'émission fut employé, on s'aperçut que le coût de l'obtention du capital-actions était encore inférieur au 7 p. 100 de rendement du capital-actions proposé par les municipalités. L'avocat-conseil de Bell, toutefois, avait cité M. Van Scoyoc dans sa plaidoirie disant que le produit net n'avait aucune signification dans la détermination du taux du coût de capital-actions, mais il avait omis de mentionner que M. Van Scoyoc avait ajouté que ce taux indiquerait un coût maximum du capital-actions.

En ce qui concerne la question de la poussée du marché, l'avocat-conseil souligna que M. Van Scoyoc avait déclaré qu'aucune concession n'était nécessaire à ce facteur dans le cas de la vente de droits, parce qu'il était automatiquement démontré dans le rapport bénéfices-produit net.

Le quatrième critère du coût du capital, déclara l'avocat-conseil, était celui des rapports bénéfices-prix, critère ayant été suggéré par M. Van Scoyoc. M. Van Scoyoc avait produit la pièce justificative N° C.M.-2 annexe 9, démontrant la moyenne annuelle des rapports bénéfices-prix douze compagnies de téléphone et la Compagnie Bell pour la période 1953-1964. Le pourcentage moyen pour la Compagnie Bell était de 5.3 p. 100 comparé à 6.2 p. 100 pour les douze autres compagnies comprenant la *British Columbia Telephone Company* et 11 compagnies américaines. Durant le contre-interrogatoire, l'avocat-conseil de Bell proposa de se servir d'une période plus courte, c.-à-d. de 1958 à 1964, et une fois cette période employée, les pourcentages moyens calculés furent de 5.18 p. 100 pour Bell et de 5.31 p. 100 pour les autres compagnies; donc, déclara l'avocat-conseil, la moyenne de 5.3 p. 100 de M. Van Scoyoc était juste. A cette dernière moyenne, M. Van Scoyoc avait apporté des correctifs de 5 p. 100 pour le coût du financement et de 3.52 p. 100 pour la poussée du marché, et avait ajouté un élément de sécurité de 0.75 p. 100 pour en arriver au chiffre définitif de 7 p. 100 de rendement sur le capital-actions.

Dans la plaidoirie de l'avocat-conseil, les rapports bénéfices-prix, haussés adéquatement pour différents facteurs, représentaient un critère valable pour plusieurs importantes commissions et représentaient un système valable pour juger de ce que le marché demandait comme bénéfices. Ces rapports furent aussi très utiles pour juger des tendances dans le coût du capital, et il était évident que la Commission avait tenu compte de ces tendances du coût du capital dans ses jugements précédents. L'une des différentes accusations ayant été faites sur l'emploi des rapports bénéfices-prix était de démontrer que de tels rapports étaient inférieurs au rendement des obligations de la même compagnie. L'avocat-conseil suggéra que cela était vrai pour toutes les compagnies, mais que ceci ne voulait pas dire que les rapports bénéfices-prix ne devraient jamais être considérés dans le coût du capital; ces rapports indiquaient le prix du marché payé effectivement par les acheteurs pour les bénéfices courants. M. Van Scoyoc,

toutefois, n'avait pas suggéré l'emploi des rapports tels quels, mais les avait établis plus haut. A ce propos, l'avocat-conseil se référa aux *Principles of Public Utility Rates* de Bonbright, page 253, qui dit:

"C'est le problème de tirer le coût courant du capital-actions ordinaire pour toute compagnie donnée des rapports bénéfices-prix des actions de compagnies similaires sous d'autres rapports qui elles-mêmes peuvent obtenir, et passent pour pouvoir tenir dans l'avenir des taux de rémunération bien supérieurs aux coûts de leur capital.¹²"

¹² Ce problème en particulier peut être évité en tirant le coût du capital-actions du relevé des chiffres sur les rapports bénéfices-prix et les produits des dividendes sur les actions de la même compagnie en question, plutôt que d'un ensemble d'actions comparables, en autant que ces actions se soient vendues à des prix n'excédant pas outre mesure la valeur comptable."

L'avocat-conseil déclara que ceci s'appliquait nettement à la Compagnie Bell. Les municipalités avaient produit un relevé des chiffres des rapports bénéfices-prix de Bell, et les actions de Bell ne s'étaient pas vendues à un prix excédant outre mesure la valeur comptable, en particulier de 1958 à 1963. M. Van Scoyoc avait témoigné que, sur une longue période, le prix moyen du marché avait été de seulement 134 p. 100 de la valeur comptable; ces dernières années, déclara l'avocat-conseil, le prix avait été de 150 p. 100 de la valeur comptable. A ce propos, M. Kosh, dans son article paru dans le numéro du 26 septembre 1963 de *Public Utilities Fortnightly*, intitulé "*Recent Trends in the Cost of Capital*", avait constaté qu'il n'y avait pas lieu de s'inquiéter lorsque les prix du marché n'excédaient pas la valeur comptable de plus de 50 p. 100; c'est seulement lorsqu'ils doubleraient ou plus que doubleraient, la valeur comptable que l'on pouvait s'inquiéter.

M. Van Scoyoc, déclara l'avocat-conseil, avait utilisé la période de douze ans allant de 1953 à 1964 pour préparer son annexe n° 9 relative à la moyenne des rapports bénéfices-prix et il avait ensuite apporté différents correctifs aux 5.3 p. 100 qu'il avait obtenus, pour en arriver à son chiffre définitif de 7 p. 100. Il avait ensuite tenté d'éprouver sa conclusion en préparant l'annexe n° 11 qui était une extrapolation pour quatre années à venir. Cette dernière annexe avait été contestée par l'avocat-conseil de Bell, qui avait suggéré que M. Van Scoyoc aurait dû utiliser une période de 12 ans ou plus et l'avocat-conseil de Bell avait aussi produit une pièce justificative démontrant ce que les résultats auraient donné pour une extrapolation de douze années. Cette extrapolation sur douze années donna un chiffre aux alentours de 10.18 p. 100, chiffre fantastique selon l'avocat-conseil. L'avocat-conseil des municipalités fit remarquer que M. Morton, le témoin de Bell dans l'affaire en cours, avait tenté d'utiliser une projection

semblable dans un autre cas, celui de la *Washington Public Service Commission in re Washington Water Power Company*, 33 P.U.R., 3rd., page 468 à 488, et que la Commission avait déclaré ce qui suit:

“...M. Morton rattache les prix du marché aux dividendes jusqu'à 12 ans dans l'avenir. Il semble donc que les résultats de M. Morton s'établissent ou non sur le fait qu'il puisse prouver que les actionnaires peuvent, en réalité évaluer les revenus futurs à un degré raisonnable de précision. Sa répugnance à évaluer les revenus futurs pour chacune des compagnies qu'il a étudiées soulève des doutes quant à la base même de sa façon d'envisager le problème. La conséquence de ce que M. Morton semble vouloir dire est que bien qu'il ne puisse pas évaluer les bénéfices futurs un ou deux ans à l'avance, il est convaincu que les actionnaires peuvent évaluer les bénéfices futurs et cela sur une période de 12 ans à venir. Nous trouvons ceci très difficile à accepter.”

L'avocat-conseil remarqua que M. Morton avait aussi fait une extrapolation à longue échéance dans le cas de la *Diamond State Telephone*, 21 P.U.R., 3rd., page 417.

L'avocat-conseil déclara que les cas suivants avaient confirmé l'utilisation des rapports bénéfices-prix: *Public Service Commission of the District of Columbia v. Chesapeake & Potomac Telephone Co.*, (une décision de 1964 n'ayant pas encore été référée et dans laquelle les rapports bénéfices-prix utilisés par M. Thatcher furent acceptés); le cas de la *Louisiana Commission*, 34 P.U.R., 3rd., page 92, et le *Supreme Court Judgement* concernant ledit cas, 33 P.U.R., 3rd., page 358; le cas de la *Washington Public Service Commission re Pacific Power & Light*, 33 P.U.R., 3rd., 433 dans lequel M. David Kosh était un témoin; le cas de la *Federal Power Commission re Tennessee Gas*, 35 P.U.R., 3rd., pages 270, 275; et le cas de la *Pennsylvania Commission re York Telephone & Telegraph*, 53 P.U.R., 3rd., page 146 à 174, cas dans lequel le témoignage de M. Morton en ce qui a trait aux gains comparables des entreprises d'électricité ne fut pas accepté, alors que le témoignage d'un autre témoin en ce qui a trait aux rapports bénéfices-prix fut accepté.

L'avocat-conseil cita ce qui suit du jugement de la *Federal Power Commission*:

“L'évaluation par l'actionnaire des risques inhérents à l'entreprise et la rémunération qu'il demande à la lumière de cette évaluation sont essentiels pour déterminer la remise sur le capital-actions ordinaire, et la Commission, en règle générale, s'est toujours référé aux rapports bénéfices-prix comme critère de cette évaluation de l'actionnaire. Nous croyons que l'étude des rapports bénéfices-prix pour la *Southern* et autres compagnies de pipeline similaires, sur une période de quelques années, mises en évidence par la

direction, peuvent être adéquatement et raisonnablement utilisées, avec d'autres facteurs pour déterminer une remise raisonnable pour le capital-actions de *Southern*."

En ce qui concerne les critiques ayant été faites et sur les rapports bénéfices-prix et sur les rapports de la valeur comptable, à l'effet qu'ils constituaient un cercle vicieux, l'avocat-conseil déclara qu'il n'était pas d'accord avec de telles critiques. Ce raisonnement sans issue était attribué au fait que de tels rapports traduisaient le taux admissible de rémunération, mais l'avocat-conseil déclara que quel que soit le taux de rendement admissible il devait nécessairement se faire sentir sur le marché, qui capitalisait automatiquement ce que la compagnie avait à offrir. Le même raisonnement sans issue était évident dans les comparaisons faites par MM. Morton et Groleau, parce qu'elles furent modifiées par les taux de rendement effectifs établis par les organismes de réglementation.

Quant aux observations critiques de NARUC concernant les rapports bénéfices-prix, qui avaient été cités par l'avocat-conseil de Bell, l'avocat-conseil des municipalités fit observer que de telles remarques n'avaient pas été, à sa connaissance, citées par, ou approuvées dans aucun jugement d'aucune commission régulatrice aux États-Unis. Sûrement, dit-il, si ces observations avaient tant soit peu de conséquence, elles auraient été sujettes à un commentaire de la sorte. A ce sujet, l'avocat-conseil déclara que Nicholls et Welch dans leur *Ruling Principles of Utility Regulation and Rate of Return*, Supplement A, écrivaient ce qui suit en page 245:

"La Cinquième Cour d'Appel de Circuit, toutefois, dans un cas datant de 1961 avait légiféré que la *Federal Power Commission* prenait en considération les rapports bénéfices-prix d'une compagnie de gaz naturel cherchant une augmentation tarifaire afin de mesurer jusqu'à quel degré le public acheteur considérerait que la rémunération était proportionnée à d'autres compagnies de pipeline."

L'avocat-conseil cita aussi ce qui suit, tiré de Nicholls et Welch, page 251, concernant une décision de la Cour Suprême de Louisiane:

"Malgré les lacunes existant dans la façon d'envisager le rapport bénéfices-prix pour déterminer le coût du capital-actions, déclara la Cour, elle sert d'indicateur raisonnablement sûr pour établir le coût de l'intérêt lorsqu'elle est utilisée selon un jugement averti, établi sur des données statistiques et autres facteurs pertinents."

L'avocat-conseil déclara que Nichols et Welch mentionnaient aussi que la Commission de Louisiane s'appuyait surtout sur les rapports bénéfices-prix en 1961 et que la Commission de New York avait accepté ces proportions comme étant un instrument fort significatif en 1961.

L'avocat-conseil déclara que le cinquième critère requis pour déterminer un taux de rendement adéquat consistait dans l'étude des taux de rendement permis actuellement et établis par d'autres organismes de réglementation, et dans l'étude d'entreprises de service public ayant des risques et incertitudes comparables, elle consistait aussi à faire les correctifs appropriés. La Compagnie de Téléphone Bell du Canada était, toutefois, unique par ses caractéristiques et son envergure; il était par conséquent difficile, sinon impossible, de trouver des statistiques comparables pour des compagnies semblables au Canada. A ce propos, l'avocat-conseil se référa à un jugement de la Cour Suprême de Californie, dans lequel on faisait mention du fait que la Commission de Californie avait trouvé un taux de rendement de 8.25 p. 100 sur l'avoir propre et que les commissions américaines depuis 1957 avaient trouvé une moyenne médiane de rendement sur le capital-actions ordinaire de 7.75 p. 100. L'avocat-conseil suggéra que, si des correctifs étaient apportés à ce dernier chiffre en raison des différences historiques de revenus réalisés par les actionnaires canadiens, ce chiffre serait réduit bien au-dessous de 7 p. 100.

Le sixième critère, déclara l'avocat-conseil, consistait dans celui d'attirer le capital, mais ce critère devait être mené de pair avec l'autre critère sur la comparabilité des risques et incertitudes. Il s'ensuivait nécessairement que les taux de rendement permis pour les entreprises de service public réglementées seraient moindres que ceux permis aux compagnies non réglementées ou la comparabilité des risques et incertitudes n'existait pas. Même si l'on accordait à Bell un rendement de 8.5 p. 100 sur l'avoir propre, elle entrerait en concurrence sur le marché non pas sur des moyennes, mais avec d'autres compagnies qui pourraient produire une variance de rendements supérieurs. Il était clair et évident, déclara l'avocat-conseil, qu'une compagnie réglementée avec un moindre taux de rendement pourrait entrer en concurrence avec d'autres compagnies ayant un taux de rendement plus élevé, et pourrait attirer les capitaux, puisque le marché lui-même capitalisait ce que les entreprises de service public et leurs concurrents avaient à offrir et fixait le prix qu'atteindraient les actions. Donc, selon la plaidoirie de l'avocat-conseil, le seul critère valable était le rendement nécessaire pour attirer les capitaux, et ceci se trouvait dans le jugement du *Ontario Energy Board*, qui avait été cité par l'avocat-conseil de la Compagnie Bell, comme suit:

“La détermination de l'acceptabilité du taux de rendement dépend de plusieurs facteurs auxquels on ne peut arriver qu'en exerçant un jugement averti sur tous les faits pertinents, y compris les revenus d'autres entreprises dont l'exploitation comporte des risques et incertitudes similaires, et le rendement nécessaire permettant à une entreprise de service public d'investir des capitaux nouveaux au besoin, à un coût raisonnable.”

La Cour suprême de Louisiane dans le cas de la *United Gas Pipeline Company v. Louisiana Public Service Commission*, 39 P.U.R., 3rd., page 349 à 356 avait déclaré ce qui suit concernant l'attraction des capitaux:

“Les taux devraient être assez élevés mais pas plus qu’il ne faut afin d’attirer les capitaux et de les maintenir là.”

Il n’y avait eu, déclara l’avocat-conseil, aucune preuve apportée par la Compagnie Bell quant au montant exact, ou même au sujet de la marge de rémunération nécessaire pour attirer les capitaux. La seule partie du témoignage à laquelle on pourrait peut-être se référer à ce sujet provient des questions posées à M. Atchison, témoin de Bell sur l’appréciation de la Compagnie par les bailleurs de fonds durant le contre-interrogatoire, l’avocat-conseil déclara qu’il avait demandé à M. Atchison s’il n’était pas vrai que Bell ayant émis des actions à \$38 en 1964 et réalisé des bénéfices pour cette année là de \$2.71 par action, soit 9 p. 100 si l’on tenait compte de la valeur des droits. Par la suite, la Commission avait demandé à M. Atchison si un rendement de 9 p. 100 sur le capital-actions était suffisant et il avait répondu que oui. Il n’était pas, toutefois, certain que cette dernière réponse comprenne le bénéfice des droits, mais l’avocat-conseil suggéra que, puisque la question de la Commission venait peu de temps après la sienne, le témoin devait probablement considérer la valeur des droits comme incluse. Cette réponse mise à part, toutefois, il n’y avait aucune référence dans le procès-verbal des délibérations à une preuve qu’un rendement déterminé du capital était nécessaire.

Bell, déclara l’avocat-conseil, avait mentionné la nécessité d’un rendement de nature à préserver la stabilité de l’investissement, et il en déduirait que le taux de rendement protégerait de l’inflation ceux qui investissent dans la Compagnie Bell. Dans sa plaidoirie, l’avocat a déclaré que la loi n’offrait aux investisseurs aucune protection contre l’inflation; on n’en a pas parlé dans la cause *Bluefield*, ni dans la cause *Hope* ni dans la jurisprudence ou les jugements connus de lui. A son avis, les termes “stabilité du capital” et “stabilité des placements” n’impliquent aucune obligation de protéger ces placements et ce capital, mais signifient simplement qu’il est recommandé de fixer un taux de rendement qui permettra de vendre les actions futures au-dessus de leur valeur comptable de façon à ne pas diminuer la masse des profits des détenteurs d’actions. C’est ce qui s’est passé en général dans le cas de la compagnie *Bell*, a affirmé l’avocat.

De l’avis de l’avocat, on n’a pas à protéger des effets de l’inflation une entreprise de service public réglementée, pour les raisons suivantes entre autres: des taux de rendement plus élevés causent l’inflation; un organisme de réglementation ne pourrait empêcher l’inflation, même s’il pourrait éviter certaines actions qui pourraient faire empirer la situation; les détenteurs d’actions ordinaires n’avaient pas le droit de recevoir une protection réservée aux détenteurs d’actions privilégiées, n’encourant plus ainsi aucun risque; l’achat de nouvelles actions se fait aux prix inflationnaires; les prix du marché tiennent compte du potentiel d’inflation; enfin, une inflation est moins probable en période de ralentissement

économique. S'il existe un ralentissement quelconque dans la croissance économique, ce qui a commencé déjà à se produire selon l'avocat, les profits des valeurs industrielles diminueront, mais les profits de la compagnie *Bell* ne déclineront pas au même rythme. L'avocat a ensuite déclaré que les actionnaires de la compagnie ont reçu une protection contre l'inflation bien supérieure à ce que la moyenne des bénéfices de 7 p. 100 de la compagnie laisse croire. Ils ont bénéficié des bénéfices réinvestis des filiales de *Bell* et des droits, ce qui porte le total à plus de 9 p. 100. Si les détenteurs d'obligations de la compagnie s'estimaient satisfaits d'un rendement d'un peu plus de 5.5 p. 100, les détenteurs d'actions devraient alors de contenter d'un intérêt de 9 p. 100 sur leurs actions à rendement.

L'avocat a ensuite cité les "*Principles of Public Utility Rates*" de Bonbright aux pages 271 et 272, y compris la remarque 30 à la page 271, pour appuyer ses arguments en rapport avec la protection des détenteurs d'actions contre l'inflation. Il a aussi cité la cause de la *Louisiana Commission* (34 *P.U.R.*, 3rd, p. 78) et les causes de la *Washington Commission* (33 *P.U.R.*, 3rd, page 487, et 53 *P.U.R.*, 3rd, page 455) au cours desquelles on a déclaré, selon ses dires, que l'on ne pouvait considérer le facteur inflation dans ces causes.

Si l'on acceptait la proposition des municipalités d'accorder à *Bell* un rendement de 7 p. 100 pour ses actions, le capital-actions atteindrait de nouveaux sommets, alors qu'on lui a fixé comme limite \$2.43 par action. C'est de cette question qu'à parlé M. Groleau lors de son témoignage lorsqu'il a déclaré:

"La détermination d'un rendement en termes d'un pourcentage du capital permettra une augmentation des bénéfices par action à mesure que l'avoir propre comptable s'accroît. Cela ne signifie toutefois pas qu'une telle hausse de profits se continuera une fois que l'on aura atteint un niveau raisonnable."

Ainsi, a affirmé l'avocat, il se produira une augmentation. Il existe toutefois deux sortes d'augmentations: l'augmentation raisonnable qu'un rendement du capital de 7 p. 100 devrait apporter à *Bell*, selon les municipalités, et l'augmentation régulière d'un capital en croissance que l'on définit comme un capital dont la croissance se maintient fortement au-dessus de la moyenne. Si l'on accordait à *Bell* un taux élevé de rémunération, disons 8.5 p. 100, ses actions n'appartiendraient à aucune des deux catégories susmentionnées, mais auraient à subir la concurrence des actions à croissance rapide dont le rendement est de beaucoup au-dessus de la moyenne. De l'avis de l'avocat, on ne devrait pas passer de règlement permettant à *Bell* d'entrer sur le marché des actions à croissance rapide. Les actions de *Bell* possèdent une longue tradition comme actions à revenu offrant des intérêts et dividendes raisonnables et sûrs; tout au long de son histoire, la compagnie a toujours réussi à obtenir les capitaux qui lui étaient nécessaires. A ce sujet l'avocat a fait remarquer que les bénéfices réalisés par la compagnie sur son capital ont passé seulement de 7.13 p. 100 en 1959 à 7.05 p.

100 en 1963, mais qu'on continuait à solliciter des capitaux. Et, ajouta-t-il, la compagnie n'a pas laissé entendre qu'elle avait eu des difficultés à obtenir des capitaux.

Dans son témoignage, la compagnie s'est référée à trois périodes de son histoire: celle d'avant 1958, celle de 1959 à 1964 et celle de 1965 à 1970. L'avocat s'est dit d'avis que l'on ne doit s'occuper que de la nouvelle période car c'est pour elle que l'on doit fixer un taux de rendement. La période de 1959 à 1964 a été témoin d'une expansion considérable tant pour l'économie que pour les opérations de la compagnie; elle a aussi vu la réussite du financement de la compagnie qui n'a éprouvé aucune difficulté financière avec un taux de rendement atteignant en moyenne 7 p. 100 de l'avoir ordinaire. L'avocat s'est dit d'accord avec les avances de la compagnie selon lesquels la nouvelle période, de 1965 à 1970, devrait posséder le même rythme de croissance que la période précédente, mais il a prétendu que ce serait malgré tout une période de ralentissement, marquée de difficultés et d'incertitudes sérieuses. Sous ce rapport, ses prétentions sont appuyées par la plaidoirie de l'avocat de *Bell* qui a déclaré:

“Les perspectives de croissance ne sont plus aussi impressionnantes qu'après la guerre car la compagnie a réussi à répondre aux demandes dans leur presque totalité et le programme de construction n'accuse plus des progrès annuels aussi remarquables que ceux de la période d'après-guerre.”

Une telle situation serait excellente pour la compagnie, selon l'avocat des municipalités, car elle éviterait une dilution additionnelle considérable de l'avoir ordinaire; tout en diminuant ses demandes de capital et grâce au capital additionnel qui lui vaudra un ralentissement de l'économie, la compagnie devrait réussir à accumuler des capitaux plus facilement que dans le passé avec un rendement de 7 p. 100 sur ses actions.

A cet égard, l'avocat mentionna qu'il s'était déjà référé à la pièce justificative n° B-63 de la compagnie qui indiquait que, tout récemment encore la demande de capital-obligations s'était révélée beaucoup plus forte que la demande de capital-actions. Ainsi, la compagnie se retrouverait dans une situation privilégiée car elle pourrait offrir les avantages d'un titre sûr et bien régi, au taux de rendement raisonnable, et non seulement de 7 p. 100 pour les actions ordinaires, car viendraient s'y ajouter 2 p. 100 provenant des bénéfices des droits et des bénéfices réinvestis dans les filiales. L'avocat a soutenu que les faits contredisaient les avances de la compagnie qui soutenait qu'il y aurait une très forte demande de capitaux et qu'elle aurait à faire face à une forte concurrence à l'avenir. Tout le témoignage de M. Barber, qui s'est fié aux rapports de la commission Hall et du Conseil économique du Canada, reposait sur des extrapolations et des hypothèses. L'avocat de la compagnie *Bell* a fait l'exposé des faits suivants:

“La concurrence moindre pour l'obtention de capitaux depuis 1959 jusqu'à aujourd'hui est un facteur qui sera absent au cours des prochaines années.

Le rapport du Conseil économique du Canada de même que le témoignage de M. Barber soulignent cette éventualité.”

Ainsi, la déclaration de l'avocat de la compagnie Bell, selon qui on ne rencontrerait pas ce facteur au cours des prochaines années se fondait uniquement sur le rapport du Conseil économique et le témoignage de M. Barber; mais ces derniers, de l'avis de l'avocat des municipalités, se basent sur des extrapolations ou des hypothèses et non sur des prédictions et des prévisions.

L'avocat a affirmé qu'il était illogique d'espérer que l'ère de prospérité qui dure depuis quatre ou cinq ans continue sans changements au cours des prochaines années. Si cela était vrai, nous aurions à ce moment réduction de la concurrence dans la demande de capitaux et la compagnie n'aurait aucune difficulté à se procurer les capitaux nécessaires au taux de 7 p. 100 proposé par les municipalités.

Un autre facteur qui influence le taux de rendement, c'est la différence entre le prix sur le marché et la valeur comptable. Personne n'a contredit le témoignage de M. VanScoyoc qui a affirmé qu'au cours des années, le prix des actions de la compagnie sur le marché s'est élevé à 137 p. 100 de la valeur comptable, ce qui représente une prime substantielle. En 1961, le prix sur le marché s'élevait à 152 p. 100 de la valeur comptable; en 1962, il s'élevait à 143 p. 100; en 1963, il se montait à 150 p. 100 et atteignait 155 p. 100 en 1964. La moyenne de ces quatre années a été de 150 p. 100. M. Kosh, dans l'article mentionné plus tôt et extrait de *Public Utilities Fortnightly*, émettait l'opinion que la valeur sur le marché des actions d'une compagnie de service public ne devrait pas excéder 150 p. 100 de la valeur comptable de ces actions. Si la Commission doit porter le taux de rendement des actions à 7 p. 100, l'avocat affirme que le prix du marché atteindrait alors 150 p. 100 de la valeur comptable, mais, si la Commission permet un rendement supérieur à 7 p. 100, le prix des actions sur le marché dépasserait le point où le prix du marché excéderait 150 p. 100 de la valeur comptable. Il n'est nulle part fait mention dans les témoignages qu'un taux de rendement de 7 p. 100 pour les actions soit trop bas pour attirer des capitaux.

En ce qui concerne la question des taux d'intérêt, l'avocat a indiqué que des articles récents dans le *Wall Street Journal* prétendaient que l'on avait atteint le sommet d'un cycle de longue durée qui a vu les taux d'intérêt atteindre un maximum, de sorte que les taux d'intérêt devraient maintenant fléchir. On fait aussi allusion dans les journaux à une consolidation des prix des obligations, ce qui indique une baisse du rendement des obligations et une disponibilité plus grande de capitaux dans un proche avenir. L'avocat a aussi fait remarquer que M. Morton en revenait constamment au fait que les taux d'intérêt sont plus élevés au Canada qu'aux États-Unis, mais l'avocat prétend que le rendement des actions au Canada de tout temps plus faible qu'aux États-Unis, contrebalance la situa-

tion. Si l'on redresse de 20 p. 100 les chiffres américains pour compenser cette différence qui a toujours existé, et de 20 p. 100 de plus à titre de dégrèvement pour dividendes, le rendement proposé de 7 p. 100 se comparera encore favorablement au rendement que l'on obtient aux États-Unis.

Pour ce qui est des risques comparés des actionnaires et de la compagnie, l'avocat a noté que le marché tenait compte de tous ces facteurs. A la fin de 1964, la compagnie avait environ 30 millions d'actions en cours, mais on dénombre très peu d'actionnaires qui se soient départis des actions qu'ils détenaient entre 1959 et 1964. On n'a aucune preuve non plus que la décision prise en 1958 par la Commission de fixer à \$2.43 le rendement de chaque action ait eu une influence défavorable sur le prix des actions. L'avocat en conclut donc qu'il faut adopter un rendement de 7 p. 100 pour les actions de la compagnie.

L'avocat a ensuite insisté sur le fait que plusieurs témoins de la compagnie avaient parlé du besoin de "stimulants" plus marqués:

a) L'avocat de la compagnie Bell déclarait dans sa plaidoirie:

"Si, après avoir fait preuve d'habileté, de talent, d'efficacité, de perspicacité, de sagesse et de prévoyance pour améliorer ses services en fonction des besoins changeants, la compagnie, pas plus que ses actionnaires, ne peut bénéficier de ses réalisations, la direction glissera graduellement vers la régie intéressée habituelle."

b) M. Groleau dans sa déposition:

"Un taux de rendement équitable se révélera un stimulant supplémentaire qui encouragera la direction à poursuivre ses efforts en vue d'accroître la productivité et d'innover."

c) M. Morton affirmait dans sa déposition:

"L'absence de stimulant peut causer chez la direction une tendance à la routine, à la léthargie et au manque d'initiative."

L'avocat a déclaré que nul n'avait tenu à témoigner devant la Commission qu'il n'avait pas fait son possible dans le passé ou qu'il ne le ferait pas dans l'avenir, pour réduire les coûts ou pour accroître son rendement à cause de l'absence de stimulants satisfaisants. Il n'est pas suffisant de se référer vaguement à des "stimulants", il faut encore apporter à la Commission la preuve qu'il existe des lacunes à combler. L'opinion de l'avocat est que la compagnie a vraiment révélé depuis 1959 son efficacité, et la présence de stimulants, en réussissant à améliorer ses services sans augmenter ses tarifs.

L'avocat a fait remarquer à ce sujet qu'il est très difficile de mesurer objectivement l'efficacité, que les coûts d'administration d'un organisme de réglementation

tion se révéleraient prohibitifs et que les mesures qu'il pourrait préconiser viendraient en conflit avec le domaine de juridiction de la direction. Pour appuyer ses dires, il cita l'article de M. G. Burdick, publié dans le *Public Utilities Fortnightly* du 4 mars 1965 et intitulé "*Regulatory Recognition of Managerial Efficiency*".

L'avocat s'est ensuite dit surpris de constater que la compagnie ne possédait aucune méthode ou aucun chiffre permettant d'évaluer la productivité. La compagnie d'autre part n'a apporté aucune preuve que l'une ou l'autre de ses installations fonctionnait à perte ou rapportait plus ou moins de 6 ou 7 p. 100. La compagnie a expliqué qu'il n'entrait pas dans ses objectifs d'augmenter les tarifs et qu'elle n'avait pas l'intention pour le moment de réaliser un rendement accru. Toutefois, la compagnie n'a produit aucun chiffre pour prouver qu'elle pourrait obtenir le rendement désiré sans augmenter ses tarifs.

Quant à la question d'un barème de rémunération, l'avocat a dit qu'il ne voulait pas donner l'impression que de tels barèmes étaient interdits aux États-Unis car il s'est trouvé des cas où on a accordé des barèmes de peu d'importance. La Commission du Maryland, dans la cause de 1964 non rapportée publiée dont on a parlé plus tôt dans la plaidoirie, a déjà fixé un barème de 6.35 p. 100 à 6.50 p. 100, mais l'avocat a fait remarquer qu'il faut remonter jusqu'en 1958 pour trouver un semblable barème à l'égard des filiales de l'A.T.&T. La Commission du New-Jersey avait autorisé pour la compagnie Bell du New-Jersey en 1958 un barème de 6 p. 100 à 6.37 p. 100, (24 P.U.R., volume 3, page 181); la même Commission avait autorisé un barème semblable pour la même compagnie en 1957, (22 P.U.R., 3^e, page 166); la Commission de l'Idaho avait pour sa part autorisé en 1956 un barème de l'ordre de 4.53 p. 100 à 4.96 p. 100 pour la compagnie *Mountain States Telephone and Telegraph*, mais ce cas est un cas spécial, car la Commission avait autorisé un tel barème au lieu des 6 p. 100 habituels parce que la compagnie n'avait pas réussi à faire ses frais. La Commission de l'Idaho avait autorisé pour la compagnie *Mountain States Telephone & Telegraph Company* un barème de 4.20 p. 100 à 5.16 p. 100 (9 P.U.R., 3^e, page 293), sujet à l'inclusion ou à l'exclusion d'un certain nombre d'articles de base tarifaire, etc... Toutefois, l'avocat fait remarquer que, depuis 1955, ce sont les seules causes impliquant des filiales de l'A.T.&T. où il soit fait mention de barèmes de rémunération.

L'avocat a déclaré qu'il voulait insister sur le fait que les arguments apportés par la compagnie au cours de ce procès sont en substance les mêmes que ceux qui furent avancés au cours de l'audience sur les tarifs de 1958. La transcription des témoignages dans cette cause renferme les énoncés suivants de la compagnie:

“Il s’est produit des changements très lourds de conséquences dans le marché des capitaux au Canada et au États-Unis. On a pu relever une nette tendance vers une gérance des fonds d’immobilisation par des professionnels.”
(Page 6528)

“De plus, il s’est produit des changements d’importance dans l’économie canadienne et américaine. Les deux pays ont connu une inflation majeure et une croissance phénoménale. L’expérience acquise lors de l’inflation et de la croissance dans le passé, combinée aux perspectives de nouvelles inflations et croissances dans l’avenir nous ont amené à attacher une importance primordiale au degré de participation que chaque compagnie doit maintenir dans la croissance économique de façon à ne pas se laisser dépasser par l’inflation.”
(Page 6529)

“Le nombre de plus en plus grandes entreprises-actionnaires et l’importance énorme qu’elles attachent à la croissance et au choix de leurs actions continueront d’être les caractéristiques de ces marchés. Dans ces circonstances, il semble qu’au cours des années le capital social de la compagnie Bell aura à faire face à une concurrence de plus en plus serrée sur le marché du capital. Les acheteurs d’actions spécialisés étudieront le rendement de ces actions et le compareront à celui d’actions semblables.”
(Page 6530)

“...les perspectives à longue échéance consistent pour l’économie canadienne, en des possibilités de croissance exceptionnelles et une inflation toujours ascendante. Les acheteurs d’actions spécialisés, la section la plus importante des actionnaires sur le marché du capital, accordent une grande importance aux possibilités de croissance d’une compagnie et à ses chances de faire face à l’inflation.”
(Page 6548)

L’avocat a insisté sur le fait que le témoin Langum avait admis en contre-interrogatoire lors de la cause de 1958 que l’actionnaire prenait pour acquises les différences entre les actions de Bell et celles d’autres compagnies de services publics et d’électricité, différences qui ont toujours existé et continueront d’exister, en ce sens qu’il attendait de la compagnie Bell un dividende de \$2 appuyé par une protection efficace quant aux rapports des bénéfices versés et de la dette. Un autre témoin de la compagnie Bell, M. Peter Kilburn, négociant en valeurs, avait prétendu lors de la cause de 1958 que personne ne voudrait présenter les actions de Bell comme des valeurs particulièrement prometteuses, mais que la cause impliquant Bell avait pour sources les possibilités qu’aurait la compagnie de continuer à payer le dividende de \$2 régulièrement et les droits que le détenteur d’actions voulait pouvoir posséder. M. Kilburn a déclaré en outre que les

détenteurs d'actions de Bell espéraient retirer un revenu de ces actions et surveillaient les deux points suivants: le taux et la tendance des bénéfices par action par rapport au dividende, et le montant et la tendance des bénéfices réinvestis par rapport au dividende. De l'avis de M. Kilburn, on ébranlerait la confiance du public envers le dividende régulier de \$2 et en conséquence, on créerait des difficultés à la compagnie lorsqu'elle voudrait obtenir des capitaux, si l'on découvrait que les revenus ont diminué au point d'affecter le dividende lui-même sans possibilités de remédier à la situation; le public est d'avis toutefois que, même si la marge de bénéfices par action de la compagnie tombe en-dessous des normes régulières des exigences quant aux dividendes, il existe dans les règlements de la Commission une clause protégeant ce dividende minimum de \$2. En conclusion, l'avocat a révélé que, malgré les facteurs susmentionnés, le Conseil avait permis en 1958 de maintenir le niveau des bénéfices à \$2.43 par action.

Selon l'avocat, les actionnaires de Bell possédaient un autre avantage caché, en plus des avantages des bénéfices et des droits, celui des bénéfices "retardés" que l'on réalisera grâce aux installations actuellement en construction. Les détenteurs d'actions savent bien, en effet, que les bénéfices potentiels de la compagnie sont supérieurs à ce que les chiffres indiquent pour une année, car une partie des actions émises par la compagnie ont servi à défrayer le coût de construction d'installations qui ne rapporteront aucun revenu avant un certain temps. Aux États-Unis, déclare l'avocat, la situation est différente car l'*American Telephone and Telegraph* finance la construction au moyen de capital emprunté, et ce n'est qu'après le parachèvement des travaux que la compagnie émet des actions au pair.

En ce qui concerne le financement, l'avocat a cité l'extrait suivant d'une décision rendue par la Commission de la Californie le 11 juin 1964 concernant la *Pacific Telephone and Telegraph Company*:

"D'importantes compagnies de services publics de Californie comme la *Pacific Gas and Electric Company* ont réussi à financer l'émission de nouvelles actions en tirant profit des prix actuels du marché, de sorte qu'elles ont amassé un montant d'argent élevé par rapport au nombre d'actions émises. La compagnie défenderesse, pour sa part, vend au pair ses actions ordinaires à ses actionnaires, sans tenir compte des prix du marché, diminuant ainsi ses bénéfices par action. A aucun moment, elle n'a tenté d'obtenir du capital-actions au plus bas prix possible compte tenu d'un prix courant favorable lors de l'émission des nouvelles actions. Nul doute que l'*American*, détenteur de près de 90 p. 100 des actions ordinaires de l'intimé, ne juge souhaitable d'obtenir de nouveaux titres de l'intimé pour une valeur au pair. Le rendement des actions de l'*American* basé sur le coût de \$14 2/7 par action, donne un

taux de bénéfice de 10 p. 100 par rapport aux coûts et des dividendes de 8 p. 100 par rapport aux coûts.”

Est-il possible de comparer les services publics d'électricité avec les compagnies de téléphone? Le juge a déclaré à cet égard:

“Néanmoins, l'intimé a choisi de comparer le rendement de ses bénéfices par action avec le rendement des bénéfices par action des compagnies *Pacific Gas and Electric* et *Southern California Edison* qui maintiennent chacune des coefficients de dettes de 50 p. 100 ou plus et attendent le moment profitable pour offrir leurs actions sur le marché en plus de bénéficier de dégrèvements libéraux d'impôt.”

Ainsi, de l'avis de l'avocat, si la compagnie Bell a continué à accorder des droits et à voir ses actions diminuer de valeur, elle ne doit s'en prendre qu'à elle-même, mais les actionnaires ont le droit d'insister pour obtenir leurs bénéfices et leurs émissions de droits. En accordant ces droits, la compagnie a fait diminuer la valeur de ses actions et a enrayé sa croissance, mais les actionnaires en ont quand même profité grâce à l'excellent rendement des actions et à la valeur des droits exempts d'impôt.

En conclusion, l'avocat fait observer que la Compagnie semble prétendre qu'il lui sera difficile d'effectuer son financement en vendant des actions et des obligations qui ne rapporteront pas davantage et elle a signalé la concurrence très serrée qui existe dans le marché des capitaux. L'avocat a ensuite cité des articles du *Financial Post* du 5 juin 1965 et du *Devoir* du 25 mai 1965, concernant une pénurie d'actions canadiennes de valeur, et une déclaration du ministre des Finances de la province de Québec, parue dans *The Montreal Gazette* du 29 juin 1965, affirmant que les contributions au régime de Rentes du Québec devraient permettre au gouvernement de ne plus dépendre autant des marchés privés des capitaux, permettant ainsi à l'industrie d'obtenir des fonds ainsi inutilisés, probablement à des taux réduits.

d) Réplique de la compagnie Bell;

1) Degré de comparaison de la Compagnie Bell avec les compagnies de téléphone des États-Unis:

L'avocat de la compagnie a d'abord signalé que la plaidoirie des intimés était farcie de références aux règlements régissant les compagnies de téléphone aux États-Unis, mais que l'on n'avait pas fait mention de la très importante déclaration du témoin Van Scoyoc:

“De toute façon, nous ne possédons pas aux États-Unis une compagnie de téléphone suffisamment comparable à la compagnie Bell pour effectuer des comparaisons significatives quant aux taux de rémunération.”

De l'avis de l'avocat, la différence la plus importante et la plus significative entre les compagnies de téléphone des États-Unis dont on a parlé, et la compagnie Bell du Canada était l'indépendance totale dont jouissait la direction de cette dernière compagnie. Cette indépendance découle du fait que, contrairement aux compagnies américaines d'importance, auxquelles on a fait allusion, aucune société de portefeuille ne possède la majorité des actions ordinaires de la compagnie Bell. Il existe encore quelques compagnies de téléphone indépendantes aux États-Unis, mais les causes survenues concernant des questions majeures comme les contrats de service et le rapport obligations-actions impliquaient des compagnies de téléphone appartenant exclusivement à des sociétés de portefeuille ou, du moins, dirigées efficacement par ces sociétés. Il est clair, selon l'avocat, que l'existence d'une société de portefeuille crée une situation complètement différente car on peut toujours soupçonner, à tort ou à raison, que les contrats passés entre la compagnie de service et la compagnie-mère ou ses filiales n'ont peut-être pas toujours le seul intérêt de la compagnie exploitante en vue.

Dans le cas de *La Compagnie de Téléphone Bell du Canada*, il n'y avait manifestement aucune société de contrôle, ni d'actionnaire individuel ou groupe d'actionnaires ayant droit de regard sur l'élection d'un ou plusieurs administrateurs ou sur la nomination des directeurs. L'avocat représentant les municipalités avait demandé et obtenu une liste des actionnaires détenant 5,000 ou plus des actions ordinaires de la Compagnie et aucun des directeurs n'y figurait. On ne pouvait donc suggérer que la direction avait la mainmise sur l'entreprise, au contraire, la gestion de la Compagnie était bien d'ordre professionnel et les décisions devaient être prises en veillant uniquement sur les intérêts de l'entreprise. Si des gains ou des bénéfices ont été réalisés à la suite d'accords comme le contrat de service passé avec l'*American Telegraph & Telephone* ou le contrat d'approvisionnement avec la *Northern Electric Company Limited*, ils étaient automatiquement portés au crédit de la Compagnie et non pas à celui d'un particulier ou d'une corporation. Dans un cas semblable, a fait observer l'avocat, il

ne fallait tenir aucun compte des jugements rendus aux États-Unis où il s'agissait de déterminer si les initiatives de la direction étaient dans l'intérêt de la société exploitante ou uniquement dans celui de ses actionnaires.

L'avocat a fait remarquer qu'il était toujours possible d'avancer que la gestion de la Compagnie Bell n'avait peut-être pas été d'ordre aussi pratique qu'elle aurait dû l'être, mais les principaux intimés en cause dans l'affaire qui nous concerne n'ont exprimé aucun grief dans ce sens. L'avocat représentant les municipalités a, au contraire, nettement émis l'opinion que la gestion de la Compagnie était excellente, il a d'ailleurs réitéré cette opinion. Si cela était exact, a déclaré l'avocat de la Compagnie Bell, les intimés demanderaient-ils qu'on ne tienne pas compte des décisions prises par une direction indépendante et compétente comptant plusieurs années d'expérience et que cette responsabilité incombe à la Commission? A ce propos, l'avocat a fait remarquer que la Commission n'avait jamais endossé une telle responsabilité lorsqu'il s'agissait d'une société placée sous son autorité et dont la gestion était ouvertement rationnelle, et il a fait ressortir que la Commission ne substituerait jamais ses décisions à celles de la direction lorsqu'elles avaient été prises judicieusement dans l'intérêt de la Compagnie.

(2) *Les relations de la Compagnie Bell avec la Northern Electric Company Limited:*

Rien, a déclaré l'avocat, ne fait mieux ressortir la différence qu'il y a entre la situation de Northern et de Bell au Canada et celle qui règne aux États-Unis que les citations de jugements rendus dans ce dernier pays et faites par l'avocat de *l'Industrial Wire and Cable Company Limited*. L'examen de chaque cas cité a démontré que dans chacun d'eux la cour jugeait une situation où les bénéfices de la société approvisionneuse ou manufacturière allaient à une société autre que la société d'exploitation sous régie. Aucun des cas examinés ne présentait de similitude avec la situation de la *Compagnie de Téléphone Bell* et de *Northern* ou la société d'exploitation sous régie est propriétaire de la filiale manufacturière.

L'avocat a souligné le fait que Northern réunissait toutes les qualités dont le gouvernement du Canada avait essayé de doter l'industrie en général. C'était l'industrie secondaire qui avait atteint une telle expansion et une telle industrialisation qu'elle avait dû faire face à la concurrence étrangère et à ses satellites qui s'efforçaient de faire obstacle à son essor. C'est ce qui a suscité ce qu'on peut qualifier peut-être de plus grand développement des moyens de recherche dans l'entreprise privée au Canada, ces efforts devant être financés à même les bénéfices. Cela avait déjà créé des débouchés appréciables sur les marchés étrangers qui s'étaient développés à un tel point que les concurrents étrangers en faisaient grief. *Industrial Wire*, grâce à ses filiales, avait manifestement des intérêts considérables dans les exportations de *Northern*.

Bien que *Industrial Wire* ait indiqué qu'elle intervenait dans la présente affaire dans l'intérêt public, ses représentants ne s'étaient pas souciés d'assister aux réunions de la Commission, sauf lorsqu'il s'agissait de connaître ou de discuter des affaires de *Northern Electric*, a déclaré l'avocat.

Dans sa plaidoirie, l'avocat représentant *Industrial Wire* avait invité la Commission à examiner quelques-uns des prix à l'exportation cotés par *Northern* et avait indiqué que ces prix se révéleraient être en violation de l'accord conclu entre *Northern* et la Compagnie *Bell* en ce qui concerne les prix à demander aux non-usagers de *Bell* dans des cas semblables. L'avocat de la Compagnie a déclaré que si la Commission jugeait à propos d'effectuer cette vérification, elle découvrirait d'autres faits. Il y aurait, entre autres choses, le fait que l'appareil téléphonique pour lequel il y avait eu demande de cotation n'avait pas été fabriqué pour *Bell* ni fourni à cette dernière, que les offres avaient été requises confidentiellement par des organismes gouvernementaux et qu'elles ne devaient être faites qu'à l'agence gouvernementale et aux soumissionnaires n'ayant pas été agréés et enfin, le fait que dans chacun des cas cités par *Industrial Wire*, l'*International Telephone & Telegraph Company* était aussi mentionnée à titre de soumissionnaire.

L'avocat a rappelé que lors des poursuites intentées par *Industrial Wire* et examinées par la Commission en 1963, on avait établi qu'il y avait certains rapports commerciaux entre *Universal Controls* et *Industrial Wire*. Il a aussi fait remarquer qu'on avait annoncé récemment que l'*International Telephone & Telegraph Company* et *Universal Controls* étaient parvenues à une entente préliminaire selon laquelle la première société acquerrait une partie de l'actif de la seconde pour un montant d'environ \$66 millions. A ce propos, l'avocat a mentionné que deux des administrateurs de *Industrial Wire* remplissaient des fonctions semblables auprès de *Universal Controls*. Par conséquent, a-t-il laissé entendre, la source des renseignements obtenus par *Industrial Wire* et son intérêt dans le marché de l'exportation ne laissent planer aucun doute.

L'avocat était d'avis que les efforts déployés pour faire obstacle à l'essor de *Northern Electric* au profit de ses concurrents n'étaient pas de pratique courante au Canada. Il a ajouté que la Commission devrait informer les personnes à l'origine de ces manœuvres que la réglementation applicable n'avait pas pour but d'avantager ou de désavantager une société dont l'exploitation pourrait faire l'objet d'une étude globale ou partielle.

L'avocat a fait remarquer que son confrère représentant *Industrial Wire* avait clairement laissé entendre qu'il cherchait à obtenir un état détaillé de la marge bénéficiaire de *Northern* répartie entre les fonds consacrés à la production d'appareillage pour *Bell* et pour les clients autres que *Bell* et subdivisée entre des catégories de matériel d'ordre général; cependant, il avait aussi admis apparemment que les prix de revient qu'on cherchait à obtenir n'aideraient aucunement

Bell à déterminer le prix exact de certaines pièces de matériel. L'avocat de *Industrial Wire* avait de plus contesté le fait que les investissements de *Bell* dans *Northern* étaient à tous les égards productifs et dans le plus grand intérêt des abonnés de la *Compagnie Bell*.

L'avocat de la Compagnie a déclaré qu'il réaffirmait que tout ce qui provenait de *Northern* était et devait être considéré par la Commission comme partie intégrante des bénéfices de *Bell* qu'il faudrait examiner pour établir des tarifs équitable et modérés. À cet égard, l'avocat a rappelé qu'un membre de la Commission avait fait observer qu'il serait extrêmement difficile de dissimuler des bénéfices réalisés par une filiale en propriété exclusive et il a ajouté qu'il serait pure folie de le faire car cela ne profiterait à personne. En pareilles circonstances, a demandé l'avocat, est-ce que quelqu'un pourrait vraiment demander à la Commission de supposer qu'une direction efficace pourrait faire des placements imprudents et vendre la production de l'entreprise à perte? Chaque cent de bénéfice que *Northern* retirait des transactions autres qu'avec *Bell* devait se multiplier au profit de la *Compagnie Bell* et de ses abonnés et il l'a fait. Dans la mesure où ces bénéfices étaient réalisés, le montant du capital-actions requis diminuait.

Dans cet ordre d'idées, l'avocat a fait ressortir que la Compagnie avait établi que ses administrateurs et ses directeurs avaient agi avec prudence et avec habileté en faisant leurs mises de fonds, que, dans l'ensemble, la preuve démontrait une gestion tout aussi compétente chez *Northern* et que la pièce n° B-59 indiquait que la direction avait effectué ses placements avec prudence, étant donné que les bénéfices de *Northern* étaient généralement comparables à ceux des autres industries manufacturières du même secteur: le critère même auquel on a eu recours dans certains cas importants aux États-Unis et dont l'avocat devait faire mention ultérieurement. La gestion conjointe de *Northern* et de *Bell* avait rapporté aux abonnés de *Bell* une plus grande marge bénéficiaire sur la mise de fonds de celle-ci dans *Northern* que n'avait rapporté à *Bell* l'exploitation de son réseau. Par conséquent, a fait valoir l'avocat, tant que les bénéfices de *Bell* examinés par la Commission en vue de déterminer le niveau admissible incluent en tous ceux provenant des filiales et tant que la Commission avait la preuve que la gestion de la Compagnie était judicieuse et compétente, rien ne nécessitait une enquête.

Quant à la proposition selon laquelle la Commission devrait s'assurer que les dividendes versés par *Northern* à *Bell*, quelle que soit l'année, dépassaient le volume des ventes à *Bell*, comparativement aux ventes aux clients autres que la Compagnie, l'avocat a déclaré que le dividende en cours mettait un point final à toute contestation. Il a ajouté, toutefois, que tout en admettant que la Commission s'assurait de temps en temps que les dividendes versés par *Northern* à *Bell* étaient justifiés dans tous les cas, il a laissé entendre qu'il serait imprudent de

se livrer à des pronostics en établissant une norme fixe d'après les principes énoncés.

L'avocat a fait remarquer que la Commission avait demandé à son confrère représentant les municipalités si un rendement d'environ 16 p. 100 des investissements de *Bell* dans *Northern* n'était pas avantageuse pour ses clients et qu'il avait répondu: "Oh, certainement, je vais aborder cette question". Mais, a déclaré l'avocat de la Compagnie, il n'en avait pas fait mention dans sa plaidoirie. Selon l'avocat de la Compagnie, son confrère représentant les municipalités avait été gêné par le fait que M. Van Scoyoc avait déclaré lors de la discussion portant sur les facteurs à la base des bénéfices ce qui suit:

"Le quatrième facteur, probablement le plus important de tous, est le taux de versement des dividendes. Moins on verse de bénéfices sous forme de dividendes, plus il est possible de réinvestir. Le placement des bénéfices aboutira à la longue à un accroissement de la rémunération de l'action."

Bien que cela n'ait pas été dit à l'intention de *Northern*, a souligné l'avocat, c'était un facteur fondamental qui s'appliquait aussi à cette société.

L'avocat représentant les municipalités a laissé entrevoir la possibilité qu'à un moment donné, *Bell* pourrait distribuer les actions de *Northern* qu'elle détient à ses propres actionnaires. Une telle mesure, a dit l'avocat de la Compagnie, ferait en sorte que l'actionnaire de *Bell* recevrait des actions de *Northern* d'une valeur comptable de \$3.05 pour lesquelles il lui faudrait payer des impôts. Son intérêt dans les actions de *Bell* diminuerait de \$1.17 l'action, ce qui lui donnerait un produit net de \$1.88 avant la déduction d'impôt. Pour ce montant, l'actionnaire de *Bell* perdrait tous les avantages qu'offre l'association de *Bell* et de *Northern* et cette association deviendrait bientôt la proie d'un autre groupe d'actionnaires dont les intérêts ne concorderaient pas avec ceux des abonnés et des actionnaires de *Bell*. La direction de *Bell* ferait preuve d'imprudence si elle abandonnait tous les avantages qu'offre son association avec *Northern* en répartissant de la sorte les actions de cette dernière entreprise. De l'avis de l'avocat, il avait fallu beaucoup de temps pour acquérir toutes les actions de *Northern* afin que chaque dollar et cent de bénéfice réalisé par cette dernière revienne à *Bell* et il a fait ressortir qu'il était inconcevable qu'une société dont la prudence et l'habileté en matière de gestion avaient été démontrées depuis tant d'années prenne soudain une décision aussi ridicule.

(3) L'applicabilité des jugements des États-Unis à la situation de la Compagnie:

L'avocat a mentionné qu'il avait déjà fait connaître son opinion sur la situation qui régnait aux États-Unis et sur celle de *La Compagnie de Téléphone Bell du Canada*. Pour cette seule raison, il était très hasardeux de se référer aux jugements rendus aux États-Unis, à moins que ces jugements n'aient servi

qu'à convaincre la Commission lorsqu'ils s'avéraient convaincants. De plus, ces jugements étaient bien divers, quelques-uns étaient prononcés par des commissions désignées et d'autres par des organismes élus, et il était pratiquement impossible de juger de la compétence des porte-parole mentionnés.

L'avocat a fait valoir que son confrère représentant *Industrial Wire* et les municipalités, ainsi que leurs témoins, avaient laissé entendre qu'un principe s'attachait au taux de rendement de *Northern* et qu'il devrait être appliqué par la Commission, c'est-à-dire, que ce taux devrait être le même que celui de *Bell*. L'avocat a aussi fait remarquer qu'il avait émis l'opinion auparavant que le principe établi serait de comparer les bénéfices de *Northern* avec ceux des autres entreprises. Deux jugements récents avaient été portés à l'attention de la Commission par les intimés, mais sans qu'il soit fait mention de toutes leurs répercussions, et dans ces jugements, la norme établie consistait en une comparaison avec d'autres valeurs industrielles afin de déterminer ce que la société approvisionneuse devrait gagner. Ces jugements impliquaient la *Pennsylvania Public Utilities Commission v. York Telephone & Telegraph Company* (1964), (53 P.U.R., 3rd., page 146), et *In Re General Telephone Company of Upstate New York* (1962), (41 P.U.R., 3rd., page 1). Chaque affaire portait sur l'association d'une société approvisionneuse, *Automatic Electric*, et une compagnie de téléphone en exploitation, les deux entreprises appartenant à la *General Telephone Company*. Dans le cas de *Pennsylvania*, il a été décidé (pages 190 et 191) que les bénéfices de *Automatic* ne devaient pas être considérés comme une rémunération du prix payé par *General Telephone* pour le capital-actions qui était très élevé, mais comme un pourcentage de rendement moyen de l'action ordinaire et en examinant les 125 valeurs industrielles de *Moody's*, la Commission a constaté que 13 p. 100 auraient constitué un rendement raisonnable. Dans le cas de *Upstate New York*, la Commission a de nouveau remarqué qu'il était recommandé d'assurer le rendement de l'action ordinaire de la société approvisionneuse comparativement aux 125 valeurs industrielles de *Moody's*, aux 30 valeurs industrielles de *Dow Jones* et des valeurs des sociétés manufacturières de la *First National City Bank*. La Commission a alors commencé à employer les cotes dérivées des 125 valeurs industrielles de *Moody's* qui marquaient une moyenne de 13.6 p. 100 sur les actions ordinaires pendant la période allant de 1951 à 1959 et la rectification avait été effectuée sur cette base.

Lors de l'examen de la compétence des commissions, l'avocat a fait observer que M. Van Scoyoc avait cité le cas d'un candidat au poste de commissaire dont le programme avait pour thème le maintien des tarifs d'autobus à un taux réduit. L'avocat a émis l'opinion qu'une étude minutieuse des décisions prises par des commissions provinciales au Canada révélerait une grande variété de conclusions dont un grand nombre sont souvent inédites, mais il a fait remarquer que lorsqu'un jugement tel que celui rendu récemment par la Commission de la Californie intervient, les partisans de l'abandon des principes établis sont

au comble de la joie et oublient ou tentent d'oublier que 99 p. 100 des commissions n'ont pas renoncé à leur façon de procéder traditionnelle et que leurs conclusions suivaient cette même règle.

Selon l'avocat, le danger que comportait l'adoption à la hâte de la présentation des conclusions telles que celles de la Cour suprême de Californie ressortait dans un rapport publié dans le *Public Utilities Fortnightly* du 10 juin 1965 énonçant le point de vue du rédacteur, M. Francis X. Welch:

"Le récent jugement rendu par la Cour suprême de Californie dans le cas de la *Pacific Telephone & Telegraph Company* a été assez bien entouré de publicité jusqu'ici. Mais il y avait deux aspects plutôt intéressants pour ne pas dire curieux que l'on n'a pas soulignés dans les résumés des nouvelles et les analyses autant que nous le sachions. Il s'agit de l'importance de la révision de la cause par la cour d'appel et deuxièmement, de la confirmation de la décision de la Commission de la Californie énonçant que les dépenses relatives aux traitements et aux salaires du personnel de surveillance devaient être justifiées indubitablement, à la fois quantitativement et qualitativement et non plus signalées à ce titre.

Pour rafraîchir la mémoire des lecteurs, il s'agissait de l'affaire controversée dans laquelle la *Bell Telephone Company* s'est présentée la première fois devant la Commission de la Californie avec une demande d'augmentation du tarif de 44 millions de dollars pour n'obtenir qu'une réduction effective de 40 millions de dollars en plus d'une injonction lui enjoignant de rembourser un montant rétroactif de 80 millions de dollars relatif aux deux dernières années. La cour d'État confirma la réduction du tarif, mais infirma le remboursement.

La portée de la révision de la cause par la cour d'appel en Californie est plutôt unique, ce qui devrait par-là même mettre en garde ceux qui établissent les règlements et ceux qui doivent les respecter dans les autres états afin de ne pas se référer à priori à ce jugement à titre de précédent dans des cas se présentant ailleurs. Tout d'abord, la Commission de la Californie a été établie en vertu d'une constitution d'État et pas simplement par la voie électorale. De nouveau, la *California Public Utility Act* interdit expressément à la cour de transmettre des faits ou d'examiner de nouvelles preuves.

Ce qui veut dire que toute entreprise de service public ou toute autre partie siégeant à une Commission est pratiquement dans l'impossibilité de se faire entendre avant même que l'appel ait lieu, elle est immobilisée quant au procès-verbal enregistré devant la Commission, à toutes les questions de fait et les conclusions de modération. Par conséquent, la cour était limitée aux questions de procédure et à un examen très superficiel de tous les faits."

“Il n'est donc guère étonnant que la cour d'appel ait relevé toute une série de conclusions émanant de commissions et faisant l'objet d'une contestation dans la cause de *Pacific* et qu'elle ait constaté dans chaque cas qu'il n'y avait aucune violation à la règle de modération. De telles contestations de fait peuvent devenir aussi futiles et frustrantes que le cas classique du joueur de base-ball voulant discuter les décisions de l'arbitre. Ce n'est que sur le point purement juridique, à savoir si la Commission de la Californie pouvait ordonner le remboursement rétroactif que la compagnie de téléphone a finalement pu avoir gain de cause, confirmant ainsi le désaccord complet du Commissaire Bennett.”

L'avocat a fait remarquer que la conclusion à laquelle était parvenue la Commission de la Californie relativement à divers problèmes dérivait fondamentalement des conclusions atteintes pratiquement par toutes les autres commissions aux États-Unis, mais étant donné que ces conclusions avaient été confirmées par une cour d'appel, cela lui donnait un cachet d'autorité qui n'était pas justifié. Les prix de vente de *Western Electric* aux sociétés d'exploitation de l'*American Telephone and Telegraph*, a déclaré l'avocat, avaient été examinés par diverses commissions d'État, mais ce n'est que dans le cas de la Commission de la Californie et probablement d'une autre commission qu'on avait dérogé au principe selon lequel le taux de rendement de la société approvisionneuse devrait être comparé au niveau des bénéfices des autres sociétés, ce que les commissions des États de New York et de Pennsylvanie avaient constaté.

L'avocat a fait observer qu'on avait examiné l'à-propos des décisions émanant d'autres sources et qu'il en avait été fait mention en 1958 dans l'audience sur les tarifs par l'avocat représentant les municipalités, qui avait déclaré:

“Bien entendu, il est désormais facile de citer des jugements prononcés par d'autres cours, mais il est parfaitement logique de faire valoir que le jugement s'appliquant à un autre cas doit être aussi examiné par rapport aux circonstances qui s'y rapportent; aux conditions dans lesquelles les tarifs ont été établis, à la question importante de savoir à quel point l'opposition soulèvera la question au nom de ceux qui feraient obstacle à la société, aux témoins convoqués, à la compétence des commissaires, à leur état de santé et ainsi de suite; autrement dit, nous avons là une situation entièrement différente.”

L'avocat a conclu en disant que lorsque des jugements sont rendus par des commissions ou des cours de justice des États-Unis relativement à des faits absolument étrangers et dont on a fait état par-devant la Commission, il ne fallait pas en tenir compte.

(4) Niveau autorisé des bénéfices de la Compagnie

L'avocat a fait remarquer que son confrère représentant les municipalités avait déclaré que la Compagnie avait été gênée, pour ainsi dire handicapée dans

son expansion par le passé et que l'une des raisons principales de cet état de choses venait de ce que le niveau autorisé des bénéfices de la Compagnie avait été calculé en dollars et cents par action, au lieu d'un pourcentage sur l'avoir propre. L'avocat représentant les municipalités avait ajouté que la Compagnie avait été aussi handicapée par le fait que ces ventes d'actions avaient été faites aux employés et aux actionnaires à des prix au-dessous du cours.

Toutefois l'avocat de la Compagnie a constaté que si un pourcentage de rendement sur l'avoir était adopté, le prix auquel les actions seraient émises ne revêtirait plus la même importance. Selon lui, une rémunération fixée en dollars sur l'action nécessitait manifestement une comparaison avec le prix d'émission, mais un pourcentage de rendement sur l'avoir limiterait évidemment le rendement dans la mesure où le prix d'émission serait élevé ou minime.

Parmi toutes les personnes qui se sont offertes à aider la Commission dans son enquête, a déclaré l'avocat, pas une seule n'a proposé que la méthode appropriée de calcul au niveau autorisé des bénéfices pouvait être autre qu'un pourcentage du capital investi. Néanmoins, il y a eu une certaine divergence d'opinions quant aux facteurs de la structure financière à laquelle il faudrait appliquer le pourcentage. Certains avaient été d'avis qu'il devrait s'agir d'un pourcentage de rendement sur l'avoir investi et d'autres, y compris les responsables de la Compagnie, avaient proposé que ce soit une rémunération du capital global investi. L'avocat a dit qu'il pensait être en mesure de démontrer que la divergence d'opinions entre les partisans des deux méthodes était plus apparente qu'elle, mais il a émis l'opinion que la preuve exposée devant la Commission dans l'affaire qui nous concerne était probante et qu'il serait dans l'intérêt de la Compagnie et de ses abonnés et en vue d'une réglementation rationnelle, que le niveau autorisé des bénéfices de la Compagnie soit établi sous forme d'un pourcentage.

La Compagnie, a affirmé l'avocat, est d'avis qu'un pourcentage de rendement du capital global serait conforme au principe presque universellement reconnu de détermination des niveaux autorisés de bénéfices pour les services publics sur le continent nord-américain. Le principal témoin de l'intimé, M. Van Scoyoc, avait convenu qu'un pourcentage de rendement du capital global était recommandé, mais il avait déclaré qu'aux États-Unis, les structures financières d'un grand nombre d'entreprises de service public étaient tellement gonflées qu'il fallait abandonner le système du pourcentage de rendement du capital global pour adopter le pourcentage de rendement du placement net. Mais a déclaré l'avocat, si l'on n'avait pas une structure financière excessive, on aboutirait au même résultat que l'on prenne un pourcentage de rendement du capital global ou du placement net et, à ce propos, M. Van Scoyoc avait convenu que la structure financière de la Compagnie n'était pas gonflée. Par conséquent, dans le plaidoyer de l'avocat, le procédé interminable et coûteux qui consiste à déterminer le placement net était inutile dans le cas de la Compagnie et le principe presque universellement

reconnu d'établissement des niveaux autorisés de bénéfices aux États-Unis et au Canada pourrait être appliqué en déterminant un pourcentage de rendement du capital global de la Compagnie. D'autre part, la possibilité d'un pourcentage de rendement sur l'avoir, tout en donnant peut-être le même résultat, avait de fait eu peu d'écho auprès des autorités compétentes et des experts sur le continent nord-américain.

L'avocat a déclaré que personnellement il pensait qu'étant donné qu'un pourcentage de rendement du placement net ou du capital global donnerait dans la plupart des cas un chiffre inférieur au pourcentage de rendement des actions ordinaires, cela avait favorisé d'une certaine manière l'adoption de la première méthode mentionnée; mais que si l'on a choisi d'adopter le principe du pourcentage comme un rendement du capital global ou du capital-actions, il était désormais tellement plus avantageux d'établir la rémunération sous forme d'un pourcentage qu'il n'était même pas besoin d'en faire mention.

L'actionnaire, a affirmé l'avocat, s'attachait manifestement au prix de l'action et non pas à ce qui aurait pu être énoncé comme sa valeur au pair. Un pourcentage de rendement sur la valeur comptable de l'action incluait les primes versées par les actionnaires, les bénéfices réinvestis et autres choses du même genre et il devenait peu important de déterminer le prix d'émission des actions, car l'actionnaire n'obtiendrait qu'un pourcentage du montant résultant de l'émission des actions. Bien que les actionnaires comme tels eussent eu de bonnes raisons de mettre en doute le prix d'émission des nouvelles actions, les abonnés n'avaient pas à se préoccuper outre mesure de ce prix si un pourcentage de rendement sur le montant additionnel de capital devait servir à calculer les bénéfices. D'autre part, les actionnaires s'efforceraient de constituer l'avoir moyen par action et en conséquence, les bénéfices moyens par action sans influencer sur le pourcentage de rémunération qu'autorisaient les autorités compétentes.

L'avocat a fait remarquer qu'un examen de la pièce n° B-95 indiquait que toutes les sociétés choisies par M. Van Scoyoc pour établir une comparaison, à l'exception d'une société indépendante aux États-Unis et de la *British Columbia Telephone Company*, avaient constamment réussi à réaliser des bénéfices sur le capital global représentant environ, sinon plus, 7 p. 100 de ce que la *Bell telephone* s'était proposé de réaliser dans un proche avenir. A compter de 1959, la moyenne atteinte par ces sociétés avait été de 7 p. 100 au plus. L'avocat a déclaré que bien qu'il ne s'en rapportât pas aux bénéfices enregistrés aux États-Unis à titre de comparaison valable, il avait cité ces chiffres pour indiquer que la réponse de la Compagnie à la demande de la Commission la priant d'énoncer la manière appropriée pour le calcul du niveau des bénéfices ne signifiait pas que la Compagnie aspirait à des bénéfices excessifs, mais indiquait que la Compagnie voulait atteindre le même secteur général d'activité que les autres sociétés assurant le même genre de service sur le continent nord-américain.

Les entreprises citées par M. Van Scoyoc, a déclaré l'avocat, représentaient de fait toute l'industrie du téléphone aux États-Unis, car les douze sociétés englobaient l'*American Telephone & Telegraph Company* et *General Telephone*, c'est-à-dire, les sociétés de gestion représentant de loin la majeure partie de l'industrie du téléphone aux États-Unis et les bénéfices de ces sociétés incluaient ceux des filiales. Dans le plaidoyer, l'avocat représentant les municipalités avait signalé que la Compagnie avait fourni les bénéfices réalisés sur le capital global par ces douze sociétés et non pas les bénéfices sur l'avoir. Convertir ces bénéfices en bénéfices sur l'avoir n'était que l'affaire d'une opération mathématique et l'avocat de la Compagnie a fait ressortir que ce calcul indiquait pour 1964 des bénéfices moyens sur l'avoir pour toutes ces sociétés de 10.23 p. 100, comparativement à une moyenne de 7.2 p. 100 sur le capital global. En 1963, le rendement moyen sur l'avoir a été de 10.16 p. 100.

Chaque fois que les intimés comparaient les chiffres, a déclaré l'avocat, ils faisaient une série de commentaires et se livraient à des calculs pour démontrer qu'ils n'étaient pas acceptables. Le premier, et, peut-être, le plus général de tous stipulait qu'aux États-Unis les bénéfices sur l'avoir ont toujours été plus élevés que ceux réalisés au Canada. Il a fallu, a déclaré l'avocat, très peu de temps pour se rendre compte que cela ne pouvait être exact. Les frais de la dette ont toujours été considérablement plus élevés au Canada qu'aux États-Unis et le rendement sur l'avoir devait inévitablement être beaucoup plus élevé que le rendement de la dette afin d'attirer les investisseurs. Il s'ensuivait donc que le rendement de l'avoir au Canada devait être plus élevé que le rendement aux États-Unis et non pas inférieur. Il est de fait, et cela a été observé depuis des années, qu'il y a toujours eu un apport net de capitaux au Canada, il n'y aurait pas un tel apport de capitaux si l'investisseur étranger ne recevait pas un taux de rendement plus élevé. Dans cet ordre d'idées, l'avocat a cité des extraits d'un mémoire établi en 1953 pour la Commission par M. Daniel Marsh, professeur d'économie à l'Université McGill, et premier économiste de la Banque Royale du Canada, dans un cas impliquant une société de chemin de fer et selon lequel tant qu'il y aura mouvement de capitaux au Canada, on peut présumer que le coût des immobilisations et/ou le rendement seront élevés comparativement à ceux des États-Unis ou de tout autre pays procurant ces capitaux.

L'avocat a fait remarquer que la seconde évaluation émanait de l'avocat représentant les municipalités lorsqu'il avait comparé la valeur des droits à la valeur intrinsèque des actions ordinaires et qu'il avait calculé une rémunération supplémentaire de 2 p. 100 de l'avoir. Toutefois, selon l'avocat de la Compagnie, cela faisait complètement abstraction du fait que l'équivalent monétaire des droits ne revenait pas à la Compagnie. De plus, rien ne garantissait que les droits continueraient à revenir aux actionnaires dans les mêmes proportions, si tant est qu'il en soit ainsi. Quoique l'étude de la valeur antérieure des droits ait

présenté quelque intérêt pour déterminer ce qui avait été à l'origine de l'apport des capitaux, l'avocat a fait ressortir qu'elle servirait à évaluer dans quelle mesure toute rémunération future se révélerait satisfaisante.

Son confrère représentant les municipalités avait présenté deux propositions, a affirmé l'avocat de la Compagnie, qui, l'une comme l'autre, enlèveraient toute valeur aux droits. La première préconisait la vente d'actions sous une forme autre que les droits de souscription et la seconde faisait valoir que le pays était aux prises avec une dépression, de sorte qu'il n'y aurait plus grande nécessité d'émettre des actions. Lorsque l'avocat représentant les municipalités avait signalé que la valeur des droits était exempte d'impôt sur le revenu, il avait oublié de mentionner que la part d'intérêt de l'actionnaire était réduite s'il omettait de faire valoir ses droits et qu'en raison de cette perte réelle d'un pourcentage de son capital, la valeur des droits n'était pas imposable. Toutefois, l'avocat de la Compagnie a affirmé que lorsqu'une évaluation était faite et semblait être fondée sur l'hypothèse que l'actionnaire obtenait la valeur en espèces de ses droits en les vendant, ainsi que la valeur intrinsèque de ceux-ci en souscrivant, il n'y comprenait plus rien.

Quant aux jugements rendus par certaines commissions aux États-Unis relativement au rapport bénéfices-prix, l'avocat a déclaré que parmi tous les organismes constitués par élection, par nomination ou par tout autre moyen et chargés d'examiner ces cas, il était difficile de savoir si dans un cas donné, la situation avait été examinée d'un point de vue objectif. Il y a quelques années, la Compagnie avait mentionné une commission qui avait été élue et dont le programme comportait la réduction des tarifs, elle avait alors retenu les services d'un expert pour présenter une cause portant sur les tarifs réduits et avait manifestement accepté la preuve qu'il avait exposée et avait rejeté celle de l'entreprise en cause. Dans les jugements qui avaient été cités par l'avocat représentant les municipalités et où il semblait qu'on approuvait quelque peu la solution préconisant un rapport bénéfices-prix, l'avocat de la Compagnie a affirmé qu'un examen de ces jugements ferait ressortir qu'on s'était borné à mentionner la formule au moment de l'évaluation définitive. Dans chaque cas, les chiffres obtenus au moyen de la formule étaient tellement extravagants qu'ils constituaient un non-sens. A ce propos, l'avocat de la Compagnie a cité un passage de la page 468 de l'ouvrage de Welch, édition 1961, intitulé *Cases and Texts on Public Utility Regulation*, et ayant trait à cette question :

“Cependant, la difficulté surgit lorsque les “experts” tentent d’interpréter ce jugement théorique du marché par des formules mathématiques qui le définiraient d’une manière précise et définitive comme le “prix de revient réel du capital” d’une entreprise de service public dont les tarifs doivent être établis. Si la formule s’avère équitable et justifiée et peut être appliquée uniformément dans divers cas sans qu’il y ait lieu d’apporter des modi-

fications compliquées ou spéciales ou bien d'effectuer une révision minutieuse, alors tout ira bien. Dans la pratique, cela se produit rarement. Le professeur Morrissey de l'Université de la Californie cite de véritables exemples de contradictions et admet le fait qu'on a recours aux décisions de ces experts, ce qui tend à enlever toute objectivité au résultat final."

Selon l'avocat, c'était justement ce qu'avait fait ressortir les études effectuées par M. Van Scoyoc, le facteur jugement était tellement important qu'il était impossible de trouver sur quel principe il était fondé.

L'avocat a fait remarquer que son confrère représentant les municipalités s'était attaqué violemment aux propositions faites par la Compagnie selon lesquelles des bénéfices accrus contribueraient à une plus grande compétence de la direction et qu'il ne devrait pas y avoir d'évaluation mathématique des bénéfices admis. Dans cet ordre d'idées, l'avocat de la Compagnie a cité un passage de l'étude de Bonbright intitulée: commençant à la page 262:

Principles of Public Utility Rates (1961)

"Dans un autre passage du présent volume, j'ai attiré l'attention du lecteur sur ce qui est peut-être la plus sérieuse de toutes les objections formulées à l'égard de la norme des frais de service des tarifs modérés des entreprises de service public, c'est-à-dire, qu'aussi longtemps que les tarifs seront établis de sorte que même une entreprise d'une rentabilité médiocre puisse couvrir ses frais d'exploitation, y compris un taux de rémunération raisonnable, et que tant qu'une rémunération plus élevée ne sera pas accordée même à une entreprise gérée d'une façon exceptionnelle, l'entreprise privée sous régie ne se sentira pas obligée d'améliorer son exploitation pour être à armes égales avec la concurrence que connaît actuellement le marché. L'expérience enregistrée aux États-Unis dans ce genre de cas justifie difficilement l'accusation sans fondement portée contre certains auteurs et donnant à entendre qu'ils s'étaient élevés contre cette thèse. Mais on pourrait au moins avancer que ce qui a évité que le règlement ait une influence censoriale et entraîne la médiocrité et l'introduction tardive des progrès de la technologie a été ses propres lacunes, qui se sont présentées sous la forme de retards apportés à la mise en application des directives et d'une entente tacite selon laquelle les commissions convenaient que des bénéfices théoriquement "excessifs" soient réalisés durant des périodes assez prolongées par des entreprises dont la réputation et les taux relatifs de frais de service déjouent toute attaque.

Mais tandis qu'une situation de ce genre peut être acceptée, elle laisse entrevoir combien il serait sage que les organismes chargés d'appliquer les règlements fassent des efforts plus systématiques et plus pondérés afin de faire une distinction, quelque peu comme la concurrence est censée le faire, entre les entreprises dotées d'une direction très compétente et celles qui sont moins favorisées à ce point de vue."

Ausujet de la proposition que la Compagnie avait présentée à la Commission et selon laquelle cette dernière pourrait constater que les bénéfices réalisés par la Compagnie en 1964 étaient justifiés et modérés et n'atteignaient pas le maximum du niveau autorisé, l'avocat a fait remarquer que son confrère représentant les municipalités avait interprété cela comme une conclusion à laquelle était parvenue la Commission et énonçant qu'un niveau minimum d'un rendement de 7.4 p. 100 sur l'avoir propre serait établi. Cette déduction, a affirmé l'avocat de la Compagnie, était fausse à la fois mathématiquement et sous bien d'autres rapports. Le rendement de 6.3 p. 100 du capital global obtenu par la Compagnie en 1964 correspondait aux 7.35 p. 100 réalisés sur la moyenne de l'avoir propre. Si la Commission a constaté que le pourcentage obtenu en 1964 n'atteignait pas le maximum du niveau autorisé, cela ne voulait pas dire que les bénéfices réalisés en 1964 devaient être considérés comme un plafond. D'autre part le rendement sur l'avoir propre établi à 7 p. 100 et proposé par l'avocat représentant les municipalités présentait tous les désavantages qu'il avait dénoncés; une telle conclusion nécessiterait que la Commission prenne des mesures immédiatement au sujet des tarifs de la Compagnie, ce que personne n'avait exigé ni même proposé.

L'avocat de la Compagnie a rappelé les propos tenus par son confrère représentant les municipalités au sujet du rapport entre la cote des actions d'une entreprise et leur valeur comptable. Il a fait remarquer que son confrère avait déclaré que l'opinion exprimée par M. Kosh dans l'article mentionné affirmait que ce rapport ne devrait pas excéder 150 p.100 et qu'il avait alors entrepris de proposer que la Commission ne devrait accorder aucun rendement qui permette à la cote des actions de *Bell* de dépasser une fois et demie la valeur comptable de celles-ci. C'est alors que l'avocat de la Compagnie a fait observer que cette cote atteignait environ une fois et demie la valeur comptable des actions. Ultérieurement, lorsque l'avocat représentant les municipalités avait cité le même auteur pour justifier le recours au rapport bénéfices-prix, après lecture de la conclusion de Bonbright selon laquelle on pourrait recourir à ce taux tant que les actions se vendraient à des prix n'excédant pas trop leur valeur comptable, il avait alors déclaré que les prix des actions de la Compagnie n'étaient pas très supérieurs à la valeur comptable de celles-ci. Pour faire le point, il avait omis de mentionner l'année 1964, car l'annonce de la tenue des audiences pour l'automne de la même année avait certainement dû influencer sur le cours, mais il s'y était toutefois référé auparavant. Puis, il avait déclaré que la valeur des actions enregistrée pendant un certain temps atteignait 134 p. 100 de la valeur comptable, à l'exception de 1964, et en conclusion, il avait dit:

"C'est alors, tout comme pendant les deux années précédentes, qu'elles ont atteint le double et plus du double de la valeur comptable, il y a donc de quoi s'inquiéter."

Par conséquent, a déclaré l'avocat de la Compagnie, si l'on devait appliquer la formule de M. Kosh et si elle correspondait au double de la valeur comptable, les actions de la Compagnie devraient avoir cours à raison de \$75 l'action environ. Puis, il ajouta que bien avant que cela se produise, il pensait que la Commission examinerait encore la situation de la Compagnie.

En guise de conclusion à son plaidoyer, l'avocat de la Compagnie a déclaré que les points soulevés par la Commission dans l'affaire actuelle avaient amené des réponses qui, de fait, s'assimilaient à celles des principaux intéressés. Il a émis l'opinion que lors de l'examen dans son contexte de la cause présentée par les intimés, on constaterait qu'en dépit des apparences, il n'y avait vraiment aucune divergence d'opinions importante entre les principaux intimés et la Compagnie, que ce soit au sujet de la méthode à utiliser pour déterminer le niveau autorisé ou du niveau lui-même.

e) Plaidoyer présenté en réponse par l'Industrial Wire and Cable Company Limited:

L'avocat a déclaré qu'il maintenait la déclaration qu'il avait faite auparavant, à savoir que l'*Industrial Wire and Cable Company Limited* était une entreprise canadienne dont le pourcentage des actions détenu par des actionnaires étrangers était inférieur à celui de *Bell*. Que rien ne justifiait la supposition selon laquelle il y avait coalition à l'échelle internationale dont une société américaine participant à cette coalition et que la cause était fondée.

f) Plaidoyer présenté en réponse par la Fédération canadienne des maires et des municipalités, et autres:

L'avocat a dit que la déclaration faite par l'avocat de la Compagnie selon laquelle il ne considérait pas comme valable la comparaison établie avec les bénéfices réalisés aux États-Unis, corroborait à tous points de vue son opinion personnelle à ce sujet. Cependant, rien ne prouvait qu'actuellement ou lors de la période à l'étude, les bénéfices réalisés au Canada sur l'avoir étaient plus élevés que ceux réalisés aux États-Unis. Le simple fait que les capitaux provenaient des États-Unis ne constituait pas une preuve, ils auraient pu être fournis pour des raisons spécifiques, par exemple, pour l'exploitation des ressources naturelles. A la suite de la citation extraite de l'étude de Bonbright et faite par l'avocat de la Compagnie selon laquelle les bénéfices constituaient une motivation, l'auteur a reconnu que rien ne pouvait prouver l'efficacité de la gestion d'une société. Il était faux d'insinuer que M. Kosh avait approuvé un taux équivalant au double de la valeur comptable. M. Kosh avait déclaré qu'il ne verrait vraiment pas d'objection à ce que le taux corresponde à une fois et demie cette valeur, mais qu'il s'opposait à un taux qui serait deux fois supérieur. L'avocat a affirmé que lui non plus n'avait jamais approuvé un taux égal à deux fois la valeur comptable.

4. DISCUSSIONS, CONCLUSIONS ET CONSTATATIONS DE LA COMMISSION

a) Introduction

Comme nous l'avons mentionné au début de cette décision, la revision de l'exploitation de la compagnie a été entreprise d'une façon délibérée par la Commission afin d'exposer aux yeux et à la critique du public tous les changements qui se sont produits dans le cours des opérations de cette compagnie depuis que nous avons rendu notre dernière décision le 10 octobre 1958, et aussi pour examiner le niveau autorisé des bénéfices de la compagnie et, à ce sujet, établir une base qui pourrait s'appliquer pour le tarif téléphonique. Nous présentons ici la première revision publique des opérations de la compagnie, revision qui a été entreprise délibérément par la Commission, car les études qui avaient été précédemment effectuées pendant la période de neuf ans écoulée entre 1950 et 1958 résultaient des demandes faites par la compagnie en vue d'augmenter, d'une façon générale, ses tarifs et le coût de ses services.

Bien que l'objet d'une telle étude qui est de s'efforcer de déterminer un niveau de bénéfices autorisé équitable et raisonnable ainsi que la base qui pourrait servir à l'établir soit facile à comprendre, d'un autre côté, les questions en cause et les examens auxquels on s'est livré pour en arriver là sont de nature compliquée et on ne peut les présenter au lecteur sous une forme claire et simple sans leur faire perdre par là même une grande partie de leur exactitude et de leur précision. Néanmoins, nous croyons que les témoignages apportés et les raisonnements qui nous ont été présentés au cours des vingt deux jours qu'a duré cette audience, tenue en mai et juin l'année passée, et qui a eu pour objet d'étudier sous tous les aspects possibles les questions en cause et les raisons invoquées, méritent d'être exposés à un plus grand nombre de personnes que celui qui assiste d'habitude à ces audiences publiques. C'est pour des raisons et aussi pour servir de fondement aux discussions, conclusions et constatations exposées ci-dessous que nous avons, dans les sections 2 et 3 susmentionnées; résumé d'une façon complète et commenté les principaux points des témoignages et des plaidoyers qui ont été soumis. Il ne devrait pas être nécessaire d'insister sur le fait que ce que nous avons exposé dans les sections 2 et 3 ne représente pas nécessairement l'opinion de la Commission mais qu'il s'agit, à notre point de vue, d'un exposé équitable et équilibré des faits qui nous ont été rapportés et que le fait que nous n'ayons pas mentionné certains points des témoignages et des plaidoyers ne veut aucunement dire que nous ne leur avons pas accordé toute l'attention qu'ils méritaient. Tous les témoignages et les plaidoyers ont été dûment examinés et analysés avant que nous ayons soumis nos conclusions.

b) La compétence de la Commission en ce qui a trait au niveau autorisé des bénéfices.

Les témoignages et les plaidoyers qui ont été soumis relativement au niveau autorisé des bénéfices que pourrait atteindre la Compagnie et aussi pour déterminer sur quelle base on pourrait l'établir de façon à en autoriser l'application aux tarifs téléphoniques seront examinés dans les sections 4(f) et 4(g) (2) ci-dessous. Cependant, arrivé à ce point de l'exposé, il nous semble approprié d'éclaircir tout malentendu qui aurait pu naître au sujet du domaine de compétence de la Commission quant à la fixation d'un niveau autorisé de bénéfices et quant à l'établissement d'une base appropriée ou de bases appropriées qui permettraient de calculer quel serait ce niveau afin que l'on puisse établir des tarifs en conséquence.

Comme nous l'avons souvent répété, la Commission a été créée en vertu de statuts et les pouvoirs dont elle dispose pour juger des questions qui lui sont soumises découlent des stipulations des statuts qui les lui accordent.

La compétence de la Commission dans le cas des compagnies de téléphone découle, dans le cadre du pouvoir législatif du Parlement, de deux lois: la Loi spéciale d'incorporation de la compagnie et la Loi sur les chemins de fer (chapitre 234 des S.R.C.) Nous avons examiné précédemment le cas de la Loi spéciale sur la compagnie à la page 2 de la section 1; cette Loi spéciale *inter alia* stipule que la compagnie, la Loi spéciale et l'exercice des pouvoirs qui en découlent seront soumis aux prescriptions de la Loi sur les chemins de fer et aux modifications qui ont été apportées à ladite Loi. L'article essentiel de cette Loi sur les chemins de fer, qui donne compétence à la Commission pour les questions concernant la Compagnie, est l'article 380 qui dans son paragraphe 13 étend le domaine de son application et soumet la compagnie aux prescriptions de la Loi sauf dans le cas de certains articles bien spécifiés: "en tant qu'elles sont raisonnablement applicables et ne sont pas incompatibles avec le présent article ou avec la loi spéciale". Parmi les articles de cette Loi dont le champ d'application est ainsi étendu et qui s'appliquent à la Compagnie on trouve la plupart, mais pas tous les articles se rapportant au trafic, aux frais d'appels interurbains et aux tarifs et l'un des articles les plus important de ce groupe est l'article 328 qui au paragraphe 5 s'applique à la compagnie et confère à la Commission le pouvoir de "fixer, déterminer et mettre en vigueur des tarifs équitables et raisonnables et pour changer et modifier les tarifs selon que peuvent, à l'occasion, l'exiger les circonstances nouvelles ou le coût..." Le paragraphe 2 de l'article 380 de la Loi prescrit que tous les frais de communications téléphoniques interurbaines devront être approuvés par la Commission; le paragraphe 3 de l'article 380 prescrit que les tarifs devront être enregistrés, et interdit à la Compagnie de demander le paiement des frais de communications interurbaines qui n'auraient pas été approuvés par la Commission et enregistrés dans un tarif auprès de cette dernière et le paragraphe 4 de l'article

380 prescrit que la Commission pourra régir les frais de conversations téléphoniques interurbaines de la même façon que le sont les tarifs de marchandises qui sont régis par la Loi et ceci dans la mesure où ces prescriptions s'appliquent et ne sont pas incompatibles avec les prescriptions de l'article 380.

Outre les pouvoirs conférés à la Commission et dont nous avons fait mention ci-dessus, la Commission a compétence pour les questions telle que l'émission, la vente et elle a aussi compétence pour prendre toutes les autres mesures relativement aux actions de capital, aux questions de connexion avec les réseaux et de contrats passés avec les autres compagnies de téléphone ainsi qu'aux installations extérieures traversant les grandes routes, etc... On peut donc affirmer que la compétence de la Commission, dans le cas de la compagnie, englobe surtout la fixation, la détermination et la mise en vigueur de tarifs et de frais qui soient à la fois équitables, raisonnables et exempts de préférences ou de discrimination injustes. Les statuts ne confèrent à la Commission aucun pouvoir direct pour fixer une base dans le cas des tarifs ou un taux de rendement établi sur cette base ou pour déterminer un niveau autorisé de bénéfices soit sur une base fiscale soit sur toute autre base. Par conséquent, les pouvoirs dont dispose la Commission, dans le domaine de la fixation d'un niveau autorisé de bénéfices, doivent nécessairement découler de ses pouvoirs étendus qui lui permettent de fixer, de déterminer et de faire respecter des tarifs et des frais équitables et raisonnables dans le cas des téléphones. Nous nous considérons donc comme nantis de tels droits nous permettant de nous occuper de la question du niveau autorisé de bénéfices mais nous considérons que ces droits ne doivent être exercés que dans le cadre du processus de fixation des tarifs afin de servir de mesure ou de critère pour la structure générale des tarifs, ce qui permettra d'établir si celle-ci est équitable et raisonnable. C'est cette particularité qui différencie, dans ce cas de l'étude de la fixation d'un niveau admissible de profits, l'étendue des pouvoirs que possède la Commission avec celle dont dispose tout autre organisme de réglementation dont nous avons fait mention au cours de ces témoignages et plaidoyers car les statuts insistent essentiellement sur les pouvoirs et les responsabilités que possède la Commission dans le domaine de la structure tarifaire. A ce sujet, il est bon de remarquer que toutes les causes précédentes qui ont été examinées et qui se rapportaient à la question du niveau de bénéfices de la Compagnie résultaient de demandes d'augmentation générale des tarifs et des frais téléphoniques qui avaient été présentées par la Compagnie. La Commission pour faire suite à ces demandes a éprouvé et étudié les nouvelles structures de tarifs proposées par la Compagnie en tenant compte de ce que la Commission considérait comme les besoins légitimes dans le domaine des profits pour la Compagnie à cette époque particulière. En d'autres termes, le niveau autorisé de bénéfices (par exemple le niveau de bénéfices que la Compagnie *pourrait* retirer de l'utilisation d'une certaine structure des tarifs, mais ceci *ne veut pas dire* que la Commission n'en garantisse l'établissement d'aucune façon) représente pour la Commission la mesure, à un moment donné, et en tenant compte

de toutes les circonstances qui prévalent à ce moment donné et de tous les facteurs appropriés qui s'y rapportent, dans laquelle la structure des tarifs, dans leur ensemble se présente sous un aspect équitable et raisonnable. Les conclusions de la Commission en ce qui a trait à cette question du niveau autorisé des bénéfices, ne s'appliquent cependant pas nécessairement à l'avenir car les circonstances et les conditions qui prévaudront alors pourront être entièrement différentes; aussi nous traiterons de cet aspect de la question dans la section 4(c) qui suit:

Dans notre Avis du 22 septembre 1964, nous avons, au sujet des tarifs, fait la déclaration suivante: "La Commission n'a pas l'intention pour le moment de faire enquête au sujet de la convenance des taxes actuelles, étant donné que les taxes actuelles ou toute révision d'icelles qui pourrait être présentée par suite de l'enquête de la Commission seraient étudiées ultérieurement, s'il y a lieu."

Le fait que l'on ait omis de mentionner les tarifs téléphoniques existants au cours de ces délibérations alors que toutes les autres opérations de la Compagnie avaient été passées en revue a fait naître quelques malentendus.

Comme nous l'avons fait remarquer plus haut, le niveau autorisé des bénéfices est la mesure ou le critère qui permet de juger si la structure des tarifs dans leur ensemble est raisonnable et équitable. Les présentes délibérations en plus de porter sur tous les changements survenus depuis 1958 dans l'exploitation de la Compagnie, sont destinées expressément, dans le cas présent, à déterminer ce qui est, dans le cadre des circonstances et des conditions présentes, considéré comme un niveau de bénéfices équitable et raisonnable. Sous cet aspect, les présentes délibérations ne sont pas différentes de celles qui avaient été entreprises dans le passé au sujet de la demande de la Compagnie d'augmenter ses tarifs et le montant de ses frais téléphoniques. Tant que la Commission n'a pas déterminé le niveau autorisé de bénéfices qui se trouve être approprié, il n'est pas possible d'établir dans quelle mesure la structure des tarifs, généralement appliquée depuis l'année 1958, est équitable et raisonnable, ni de le prouver; pas plus qu'il n'avait été possible, au cours des précédentes délibérations, avant que l'on n'ait pu déterminer un niveau autorisé de bénéfices, d'établir si les demandes d'augmentation de la Compagnie pour ses tarifs et le montant de ses frais de services n'étaient justifiées dans le cadre d'une structure de tarifs équitable et raisonnable.

Dans cet ordre d'idées, il est important de se rendre compte qu'une structure des tarifs dans une compagnie ne peut être discutée, éprouvée et évaluée *in vacuo*; il faut pouvoir se référer à une base dont on puisse tirer des critères appropriés et pertinents. La comparaison de la structure des tarifs de la Compagnie avec celle d'autres compagnies au Canada ou aux États-Unis n'a, au point de vue preuve ou au point de vue valeur persuasive, que très peu de poids à moins que l'on ne puisse démontrer que les faits et les circonstances sur lesquels se fonde chacune des structures de tarifs peuvent se comparer.

c) Interprétation des décisions de 1958 de la Commission

Dans la période qui s'est écoulée depuis nos décisions du 10 janvier 1958 (76 C.R.T.C. 267) et du 10 octobre 1958 (78 C.R.T.C. 1) et qui ont trait aux demandes faites par la Compagnie en vue d'augmenter d'une façon générale, ses tarifs et le montant de ses frais, il est devenu évident que certaines idées fausses et que certains malentendus se sont fait jour en ce qui a trait aux conclusions de la Commission pour ces deux arrêts. Des déclarations mal étayées et inexactes ont été faites au sujet de ces conclusions dont certaines ont reçu une certaine publicité.

Jusqu'à un certain point, ces conceptions erronées et ces malentendus se rapportent aux pouvoirs de la Commission de fixer un niveau autorisé des bénéfices, et dans la mesure où il en est ainsi, nous en avons traité dans la précédente section 4(b). Dans l'ensemble, cependant, ces interprétations erronées de nos conclusions donnent ou cherchent à donner à celles-ci un aspect statique ou rigide qui n'était nullement voulu ou fondé sur quoi que ce soit dans le cas des mesures prises par la Commission dans le passé ni dans les termes des décisions elles-mêmes.

On ne saurait trop insister, vu l'existence de ces conceptions erronées, sur le fait que la Commission réglemente des sociétés en particulier et non pas des services publics rendus dans l'abstrait. La structure financière et le montant total de capital varient de temps à autre; les coûts afférents au capital emprunté varient à mesure que se rajoutent de nouvelles dettes; le niveau des taux d'intérêt varie; le prix d'émission et, par conséquent, le prix de revient du capital-actions fluctue selon les conditions du marché; les différentes catégories de dépenses varient de temps à autre tant dans leur montant que dans leur composition. La Commission s'efforce d'être pratique et elle doit donc tenir compte des conséquences de ces fluctuations. Par conséquent, les conclusions auxquelles elle a abouti dans les circonstances et les conditions qui prévalaient à un moment donné y compris la tendance probable, dans l'avenir, de ces circonstances et de ces conditions, ne s'appliquent pas nécessairement à l'avenir lorsque les circonstances et les conditions pourront se trouver totalement différentes.

A ce sujet, il faut remarquer que la réglementation est et doit être, dans une large mesure, *ex post facto*. La Commission a constamment soutenu que ses pouvoirs étaient du domaine réglementaire et du domaine du redressement et non pas du domaine de la gestion. Par conséquent, il est nécessaire que la Commission étudie, de temps en temps, les opérations de la Compagnie comme elle le fait dans les présentes délibérations et qu'elle prenne, à l'avenir, toute mesure de redressement qui peut s'avérer nécessaire; mais la Commission n'a pas la compétence nécessaire pour redresser avec rétroactivité les décisions qui ont été prises par la direction. Une réglementation qui est pétrifiée dans une formule mathématique et figée dans le temps aurait pour résultat

de réglementer tellement les opérations qu'il ne resterait à la direction que peu ou pas de latitude dans l'exercice de ses décisions quotidiennes quant à ses jugements, son initiative ou son esprit d'entreprise. Ceci constituerait une atteinte non justifiée aux droits de la direction qui serait préjudiciable à l'exploitation efficace de l'entreprise et pourrait avoir fort rapidement des répercussions néfastes pour les abonnés.

d) Discussions, conclusions et décisions dans le cas de certaines questions subsidiaires en cause

1) Le contrat de service avec l'A.T.&T.

Les témoignages apportés par la Compagnie, dans le cas du contrat de service avec l'*American Telephone & Telegraph Company* sont décrits dans la section 2(i) d) susmentionnée et les plaidoyers à ce sujet sont résumés dans la section 3 a) (4) susmentionnée. L'avocat représentant les municipalités ne nous a apporté aucun témoignage ou plaidoyer dans cette affaire bien qu'il ait contre interrogé le témoin de la Compagnie. Il n'est pas nécessaire de reprendre ici ces témoignages et plaidoyers, il n'ont pas été mis en doute et aucune critique n'a été formulée à l'égard du caractère approprié des clauses et des conditions qui ont été établies dans ce contrat de service.

La Commission a conclu que la Compagnie avait fourni la justification des clauses de ce contrat et de la validité de la répartition des frais y afférents et du caractère raisonnable des paiements faits, en vertu de celui-ci. La Compagnie a aussi prouvé à la Commission que la valeur des services dont elle bénéficiait en vertu de ce contrat était en rapport avec les paiements qu'elle devait effectuer et que ce contrat était à l'avantage de la Compagnie et de ses abonnés.

2) Régime de pension de la Compagnie

Les témoignages de la Compagnie en rapport avec cette question sont exposés dans la section 2 (i) e) susmentionnée et le plaidoyer à ce sujet est décrit dans la section 3 a) (5) susmentionnée. Le plaidoyer de l'avocat représentant les municipalités se trouve dans la section 3 c) (3) susmentionnée.

Comme il ressort du plaidoyer de l'avocat de la Compagnie, le régime de pension a été largement examiné dans l'étude des causes antérieures qui avaient trait aux demandes faites par la Compagnie en vue d'appliquer une hausse générale et des modifications dans ses tarifs. Dans les décisions qu'elle a rendues à l'occasion de ces causes, la Commission a constaté que le coût du régime de pension était une dépense justifiée et qui ne devrait pas être critiquée par les abonnés. Dans ces causes, on avait aussi soulevé des objections quant à la nature non contributive du régime, mais la Commission a déclaré qu'elle n'était

pas persuadée qu'un régime de contributions permettrait nécessairement de réaliser des économies sur la totalité des dépenses encourues.

Depuis notre dernière décision, rendue le 10 octobre 1958, le régime de pension a été modifié ainsi qu'il suit. A partir du 1^{er} mars 1959, la base du calcul de la pension sera les 5 plus hautes années consécutives de traitement. Le minimum de pension payable sera augmenté passant de \$40 à \$50 par mois, et la réduction des prestations de pension faits en vertu des versements du régime de pension de la Loi sur la sécurité de la vieillesse sera limitée aux versements qui sont reçus en vertu de cette Loi en excédent de \$55 par mois. A partir du 1^{er} mai 1962, le minimum de pension versé avant l'admissibilité aux versements de la Loi sur la pension de la vieillesse sera relevé à \$70 par mois mais continuera à être de \$50 par mois après admissibilité. A partir du 1^{er} octobre 1963, le taux de la pension sera changé de 1 p. 100 à 1.1 p. 100 pour les premiers \$10,000 de traitement annuel moyen; le minimum de pension versée après l'âge d'admissibilité au régime de la Loi sur la sécurité de la vieillesse sera augmenté, passant de \$50 à \$55 par mois; et certaines autres modifications seront apportées dans les cas des catégories "A" de pension, des options pour les survivants, du bénéfice automatique au survivant, de l'affectation des pensions des employés qui quittent la Compagnie et de la réduction qui résulte des prestations faites en vertu du régime de la Loi sur la sécurité de la vieillesse.

Les témoignages de la Compagnie se rapportent généralement aux modifications précédentes et visent à maintenir la situation relative et la valeur du régime de pension comparativement à celui des autres compagnies; ils montrent, par les résultats des études de la Compagnie relatives aux régimes de 35 importants employeurs au Canada que le niveau de son régime est resté depuis 1949 dans une situation pratiquement identique par rapport à celui de ces compagnies. L'avocat des municipalités, d'un autre côté, nous a priés d'entreprendre une étude afin de déterminer si oui ou non un régime de pension non contributif représentait une charge plus importante pour les abonnés que dans le cas d'un régime à base de contribution. Il a aussi critiqué la méthode de financement par accumulation; il a émis l'avis que l'on pourrait rendre le régime plus dynamique; il a émis l'opinion que le régime ne devrait pas être rendu plus généreux sauf l'approbation de la Commission et il a déclaré qu'aucune preuve n'avait été apportée indiquant que le changement de la base de la pension de 10 ans à une base de 5 ans ait été une mesure raisonnable.

Après avoir soigneusement étudié les témoignages et les plaidoyers sur la question du régime de pension de la Compagnie, nous n'avons trouvé aucune raison de modifier nos conclusions antérieures en ce que le régime de pension se trouvait raisonnable et justifié quant au coût encouru par l'abonné compte tenu des tarifs qui le concernent. La Compagnie n'opère pas à vide car il s'agit d'un service public qui est réglementé et son régime de pension doit de toute

évidence être raisonnable comparativement à celui des Compagnies qui ne sont pas réglementées afin d'attirer et de retenir le personnel du calibre nécessaire pour qu'elle fonctionne avec efficacité. Nous avons pu nous convaincre que les seules modifications qui avaient été apportées depuis 1959 à son régime de pension étaient celles qui s'étaient révélées indispensables pour maintenir son niveau par rapport aux autres régimes semblables. Nous n'avons relevé aucun témoignage prouvant que le régime de pension de la Compagnie était indûment généreux et nous n'avons relevé aucune preuve qui puisse nous persuader que l'application d'un régime à contributions diminuerait nécessairement les frais d'ensemble.

Il n'appartient pas à la Commission de prescrire la forme que doit revêtir le régime de pension et qui doit être adopté par la direction ni d'en surveiller en détail le fonctionnement. Comme nous l'avons indiqué dans notre décision du 15 novembre 1950 qui se rapportait à la première demande faite après la guerre par la Compagnie pour hausser ses tarifs et le montant des frais demandés d'une façon générale.

"...il incombe à la Commission, dans le cadre de ses pouvoirs de réglementation d'étudier d'une façon approfondie tous les postes de dépenses qui existent ou qui peuvent être proposés et toutes les autres questions qui peuvent avoir pour conséquence des augmentations injustes ou non raisonnables ou de caractère discriminatoire injuste, des frais d'appels téléphoniques régionaux et des frais qui seront encourus par les souscripteurs (abonnés). Mais il faut aussi reconnaître qu'il importe de laisser une marge de latitude raisonnable à la direction, dont il convient de respecter l'autonomie en la matière".

3) Amortissement

Les témoignages de la Compagnie eu égard à l'amortissement et aux modifications apportées aux amortissements accumulés, sont exposés dans la section 2 (i) f) susmentionnée et le plaidoyer qui se rapporte à cette question est exposé dans la section 3 a) (6) susmentionnée. Le plaidoyer de l'avocat représentant les municipalités a été détaillé dans la section 3 c) (5) susmentionnée.

Les méthodes et les taux d'amortissement utilisés par la Compagnie ont été examinés en détail dans chacune des causes antérieures concernant les tarifs, particulièrement dans les causes de l'après-guerre. Peu de modifications ont été apportées depuis la dernière audience sur les tarifs de 1958; le taux d'amortissement composé ayant augmenté légèrement passant de 4.83 p. 100, en 1959, à 4.994 p. 100 en 1964, ceci étant dû en grande partie au changement des taux dans trois comptes (appareillage de postes, raccordement de postes, câble aérien-central), comptes pour lesquels nous avons exposé les témoignages pertinents.

L'avocat pour les municipalités a déclaré qu'il n'avait que peu de chose à ajouter aux témoignages en question mais il a exprimé la crainte que dans l'avenir se posent de sérieux problèmes de vieillissement. Il est d'avis que cette tendance grave à la désuétude devrait être surveillée par la Commission afin que la Compagnie en amortisse le coût sur une période donnée. Personne jusqu'ici n'a relevé de signe de désuétude sérieux et il n'est donc pas utile que la Commission réglemente cette question à l'heure actuelle.

La Commission, par conséquent a conclu que les dépenses d'amortissement de la Compagnie sont actuellement d'un coût équitable et raisonnable pour les abonnés qui les défraient au moyen des tarifs et des frais.

4) *La Structure financière de la Compagnie*

Aucun témoignage n'a été apporté par la Compagnie à ce sujet sauf en ce qui a trait aux aspects de la structure financière indiqués dans le TABLEAU II DE LA COMMISSION. Les témoignages apportés par les municipalités en rapport avec cette question l'ont été par M. Van Scoyoc et par M. Courville et ils sont brièvement exposés dans les pages 56, 57, 65 et 66 de la Section 2 (v) susmentionnée. Le plaidoyer de la Compagnie au sujet de la structure de son capital est exposé dans la section 3 a) (10) susmentionnée et le plaidoyer des municipalités dans la section 3 c) (10) susmentionnée.

En résumé, la situation des municipalités indique que le prorata de la dette de la Compagnie devrait être augmenté et passer du niveau de 40 p. 100 de la totalité du capital investi à un niveau minimum de 50 p. 100; ceci afin de permettre des économies de coût en capital puisque le capital emprunté, représentant une dépense donnant droit à des abattements d'impôt, serait beaucoup moins onéreux que le capital-actions. On prétend que l'on pourrait parvenir à cette situation au cours d'une période de trois à quatre années en augmentant d'un montant d'environ \$360 millions le capital emprunté sans effectuer aucune vente d'actions ordinaires. L'avocat représentant les municipalités a déclaré que si la Compagnie décidait de porter le prorata de sa dette à 50 p. 100, elle obtiendrait ainsi un taux de rendement plus élevé mais on ne nous a pas précisé quel serait ou devrait être ce taux de rendement. L'avocat représentant les municipalités a aussi conseillé à la Commission de consulter des sociétés de placements afin de déterminer si celles-ci étaient d'avis que la Compagnie Bell souffrirait en augmentant le prorata de la dette et en particulier si la Compagnie obtiendrait un plus fort taux de rendement à la suite de l'augmentation de risque éventuellement encourue.

La Compagnie d'un autre côté a prétendu que le choix d'une structure appropriée de capital dépend, en dernière analyse, largement d'une décision basée sur l'expérience et commercialement justifiée; qu'une telle structure devrait être organisée à longue échéance vu que le capital emprunté doit être par la suite

remboursé à des conditions de marché qui ne peuvent être exactement prévues, et que tout avantage que l'on croit obtenir à courte échéance à la suite d'un recours intempestif à la dette doit être évalué par rapport aux risques supplémentaires encourus et aux incertitudes qui pourraient en résulter pour la Compagnie. En fixant le prorata de la dette à 40 p. 100, l'avocat de la Compagnie a déclaré que la direction s'en était sagement tenue à la latitude qu'elle pouvait se permettre, selon la Commission. Vu les besoins existants pour la Compagnie de la nécessité de conserver une marge adéquate de possibilités d'emprunt afin de financer sa croissance; vu l'augmentation de la volatilité des revenus de la Compagnie; vu la rigidité croissante des dépenses de la Compagnie et le risque d'un vieillissement prématuré; vu la tendance à la baisse dans le domaine des intérêts de la dette de la Compagnie; vu le fait que certaines personnes considéreraient un prorata de la dette de 40 p. 100 comme élevé dans les conditions qui prévalent en 1965; l'avocat représentant la Compagnie a déclaré que tout changement apporté au prorata de la dette serait non justifié et qu'il n'y avait aucune raison pour que la Commission se mêle des décisions des administrateurs et des directeurs de la Compagnie; décisions qui avaient été faites après mûre réflexion sur tous les facteurs en cause.

Ce problème n'est pas nouveau. Il a été soulevé après la guerre à l'occasion de chaque cause qui impliquait la Compagnie dans une question de hausse des tarifs. Dans son jugement de 1950 sur les tarifs (67 C.R.T.C. 1) nous avons déclaré:

"La question de savoir en quoi consiste ou ne consiste pas un prorata de la dette approprié est en elle-même une question purement théorique. Le vrai problème est de savoir si oui ou non la présente Commission devrait, aux fins de la détermination de tarifs équitables et raisonnables, inclure comme article de dépense admissible les frais en rapport avec les soumissions financières présentées par la Compagnie... le fait est que nul ne peut prévoir avec certitude l'avenir. Sans aucun doute, M. Bonbright qui est témoin des défendeurs de la requête de la Compagnie et qui a reconnu cet aspect du problème lorsqu'il a témoigné sur la question de savoir si un prorata de la dette de 45 p. 100 était raisonnable, a fait savoir clairement que son opinion était basée sur les cours récents du marché des actions et que si ce marché fluctuait, le prorata de la dette approprié par rapport aux actions devrait être réétudié"

.....
"..... Je suis d'avis, et après avoir soigneusement pesé les témoignages, qu'il serait juste et raisonnable d'accepter comme base de détermination des besoins de la Compagnie, le prorata de dette qui existe présentement, c'est-à-dire 40 p. 100. Cette proportion a été établie par décision délibérée de la direction de la Compagnie. J'ai acquis la certitude... que son accep-

tation, dans le cas présent, ne nuirait nullement aux opérations de la Compagnie.

Dans la cause sur les tarifs de 1952 (68 C.R.T.C. 359), nous avons déclaré:

“Nous sommes, dans les circonstances présentes, quelque peu porté à croire qu’il serait bon de raffermir la structure financière d’un service public, dans la mesure où, dans des conditions moins favorables sur le marché des valeurs, il ne se trouverait pas dès le début handicapé pour obtenir le capital supplémentaire dont il a besoin et ceci à des conditions raisonnables. Et il semblerait que l’on pourrait y parvenir par cette méthode et à un coût raisonnable pour les abonnés plutôt qu’en faisant appel à d’autres méthodes de revalorisation de la situation financière de ce service public. Nous favorisons donc, aux fins de détermination des besoins financiers de la Compagnie, l’adoption d’un prorata moyen de la dette de 40 p. 100”.

Et dans la cause sur les tarifs de 1958 (76 C.R.T.C. 267) nous avons déclaré:

“La Commission, après avoir étudié sous tous leurs aspects, les témoignages à ce sujet ne voit aucune raison de modifier les conclusions auxquelles elle a abouti dans les causes de 1950 et de 1952 et, en conséquence, elle est d’avis que le prorata de la dette équitable à la fois pour les clients et pour la Compagnie dans cette cause est de 40 p. 100. Puisque le prorata de la dette selon les témoignages de la Compagnie, est, pour l’année 1958, quelque peu inférieur à 40 p. 100, on a effectué un rajustement d’environ 2 millions de dollars lorsqu’on a calculé le déficit du revenu du demandeur. Les calculs de la Commission à ce sujet ne doivent pas être considérés comme un substitut qu’apporte la présente Commission aux calculs faits par la direction du demandeur, lesquels établissent de temps à autre ce que doit être la structure financière. Les raisons de ce rajustement sont de mettre en vigueur des tarifs résultant des conclusions des délibérations de la Commission et qui établissent que 40 p. 100 représentent actuellement un prorata de dette raisonnable.

Nous nous rendons bien compte que la Compagnie n’atteindra pas nécessairement cette proportion moyenne en 1958, auquel cas, il se peut que les bénéfices par actions de la compagnie soient moindres que le niveau admissible exposé dans les présentes délibérations.”

Comme nous l’avons indiqué dans la citation précédente, la Commission a, lorsque les circonstances le permettaient, considéré comme approprié de rajuster le prorata de la dette de la Compagnie *aux fins de fixation des tarifs*. Mais ce que les municipalités veulent réellement avancer dans les présentes délibérations, c’est qu’il faudrait effectuer quelque chose de plus important, soit un véritable rajustement du prorata de la dette de la Compagnie, sur plusieurs années, en

émettant du capital emprunté jusqu'à ce que l'on ait atteint un prorata de la dette d'environ 50 p. 100 afin de réaliser des économies sur le coût du capital par la réduction des impôts sur les corporations. Il y a, sous-jacent à cette proposition, le fait que la Compagnie pourrait, si elle le désirait, placer des sommes substantielles de capital emprunté et à des conditions qui ne seraient pas beaucoup moins favorables et sans pour cela nuire d'aucune façon aux opérations futures de la Compagnie. A notre point de vue il s'agit là de prétentions fort lourdes de conséquences et qui ne sont que fort peu justifiées aux yeux de la présente Commission et qui ne sont ni clairement ni suffisamment fondées pour justifier une intervention de la Commission dans les décisions de la direction de la Compagnie.

La Commission a, par conséquent, conclu que pour les raisons susmentionnées, un prorata moyen de la dette d'environ 40 p. 100 est juste et raisonnable tant pour la Compagnie que pour ses abonnés aux fins de détermination présente d'un niveau autorisé de bénéfices qui permette d'établir si la structure des tarifs de la Compagnie est dans son ensemble équitable et raisonnable.

e) Les relations entre la Compagnie Bell et la Northern Electric Company Limited

Les témoignages et les plaidoyers sur cette question qui ont été décrits ci-dessus sont résumés ci-après:

Témoignages apportés par la Compagnie: section 2(i) h);

Témoignages apportés par l'*Industrial Wire and Cable Company Limited*: section 2(iv);

Témoignages apportés par la Fédération canadienne des maires et des municipalités, et autres: section 2(v) pages 61 à 63 et 65;

Plaidoyer de la compagnie; section 3 a) (7);

Plaidoyers de la *Industrial Wire and Cable Company Limited*: section 3 b) (1);

Plaidoyers de la Fédération canadienne des maires et des municipalités, et autres: section 3 c) (7);

Plaidoyer en réponse de la Compagnie: section 3 d) (1), 3 d) (2) et 3 d) (3); et

Plaidoyer en réponse de l'*Industrial Wire and Cable Company Limited*: section 3 e).

Il n'est pas nécessaire de reprendre les divers points de ces témoignages et plaidoyers aux fins des conclusions auxquelles nous en sommes arrivés.

Les questions en cause peuvent être rapidement résumées comme suit:

L'*Industrial Wire and Cable Company Limited* prétend que la Commission devrait examiner les coûts de la *Northern*: ceci dans l'intérêt des abonnés du fait que, n'est prévu aucun marchandage entre *Northern* et *Bell*. A cette fin, la Commission devrait se procurer les rapports de *Bell* et de *Northern* sur leurs coûts et

taux de rendement par catégorie générale de produit, chaque catégorie étant subdivisée entre les affaires qui concernent *Bell* et les autres. *Industrial Wire* a cependant laissé entendre qu'elle ne s'intéressait pas à la question de savoir si la Commission devrait restreindre le taux de rendement de *Northern* pour ses transactions avec *Bell*, bien que ses deux témoins MM. Thatcher et Simonton aient déclaré être d'avis qu'un taux de rendement raisonnable de *Northern* sur ses ventes à *Bell* reviendrait au même que ce qu'autorise la Commission comme niveau autorisé de bénéfices pour *Bell* sur la totalité de son propre capital. L'avocat représentant les municipalités a avancé que le taux de rendement de *Northern* sur ses transactions avec *Bell* devrait être limité au coût plus 7 pour cent sur les actions, le même taux de rendement que les municipalités voudraient voir fixer par la Commission comme niveau autorisé de bénéfices dans le cas de *Bell*. L'avocat de *Industrial Wire* et celui des municipalités nous ont rapporté de façon détaillée la position de la jurisprudence aux États-Unis dans le cas des transactions entre les compagnies dites affiliées dans le domaine des services publics. En particulier, l'avocat représentant les municipalités a avancé qu'il n'existait aucune différence entre les rapports qui existent entre les compagnies exploitantes *A.T.&T.-Western-Electric-Bell* et les rapports qui existent au Canada entre *Bell* et *Northern* et que cette jurisprudence des États-Unis s'appliquait également à la situation au Canada particulièrement dans le cas d'une récente décision de la Commission des services publics de la Californie.

La Compagnie *Bell* a déclaré que, bien que ses achats à *Northern* dans les années dix-neuf cent cinquante représentaient environ 50 per cent de la totalité des ventes de *Northern* les variations du volume de ses achats, même pendant la période qui s'est écoulée depuis 1958, avaient été fort importantes et les variations de la totalité de ventes de *Northern* pouvaient se comparer à celles de l'industrie des appareils et des approvisionnements électriques, les fluctuations dans ce domaine ayant été plus importantes que celles qui s'étaient produites dans toutes les autres industries de la fabrication; que les bénéfices de *Northern* étaient fort raisonnables pour une industrie manufacturière de ce genre, la rémunération moyenne de *Northern* pour l'ensemble du capital, dans les années allant de 1949 à 1963, s'établissant à 10.26 p. 100 et la marge de ce profit, depuis 1957, ayant passé d'un minimum en 1961 de 5.98 p. 100 à un maximum de 9.94 p. 100 en 1959; que le rendement moyen du capital global dans le cas de 65 valeurs industrielles cotées en bourse de Montréal depuis l'année 1957 avait varié entre 7.67 pour cent et 9.16 p. 100 et qu'il était du même ordre en général bien que les bénéfices de *Northern* aient été sensiblement moins élevés durant la période qui s'était écoulée depuis 1957; et que *Northern* avait obtenu, pour ses transactions n'ayant rien à voir avec *Bell* sur le marché ordinaire concurrentiel, des prix plus élevés que ceux payés par *Bell*. La Compagnie a aussi rétorqué que son exploitation ne se compare pas à celle des sociétés de gestion

et des compagnies affiliées qui est courante aux États-Unis, et que, par conséquent, on ne devait pas tenir compte de toutes ses décisions prises aux États-Unis où la question réellement en cause était de savoir si les décisions de la direction étaient de nature à apporter des bénéfices aux sociétés d'exploitation de téléphone en elles-mêmes ou étaient destinées au seul bénéfice des actionnaires, c'est-à-dire de la société de gestion. La Compagnie a, de plus, fait remarquer qu'elle touchait des dividendes qui lui rapportaient quelque 16 p. 100 de ses investissements dans *Northern*, dividendes que la Commission considère comme faisant partie du niveau autorisé des bénéfices lorsqu'elle fixe les bénéfices que peut retirer *Bell* et qui par conséquent bénéficient aux abonnés de cette Compagnie. Dans notre décision du 10 janvier 1958 (76 C.R.T.C. 267), nous avons déclaré, en partie, ce qui suit:

"Sur la foi des témoignages, la Commission a conclu que, pour le moment, les placements fait par *Bell* dans *Northern* ne sont pas préjudiciables aux intérêts des clients de *Bell* et que, de plus, les prix payés par *Bell* à *Northern* sont aussi bas sinon plus bas que les prix courants."

En réexaminant cette question, à la lumière de tous les témoignages et plaidoyers qui nous ont été présentés au cours de ces délibérations, nous en sommes arrivés à la conclusion que, du moment que la Commission considèrerait que les prix payés par *Bell* à *Northern* étaient équitables et raisonnables et que les placements faits par *Bell* dans *Northern* n'étaient pas au détriment des intérêts des abonnés de *Bell*, il ne nous semblait pas utile que la Commission prescrive le niveau auquel les bénéfices du capital de *Northern* consacré aux transactions avec *Bell* devait s'établir. Nous considérons donc que ce rendement du capital que *Northern* affecte aux transactions avec *Bell* indique si oui ou non le total des paiements pour les produits et les services rendus par *Bell* à *Northern* est équitable et raisonnable.

A ce sujet, nous avons pris bonne note des témoignages apportés par la Compagnie à l'effet que le taux de rendement global de *Northern* se comparait raisonnablement avec les bénéfices moyens des 65 valeurs industrielles de la Bourse de Montréal. L'avocat représentant les municipalités a allégué que dans le cadre des responsabilités de la Commission en ce qui a trait à la fixation d'un niveau autorisé de bénéfices, celle-ci devait tenir compte de la situation économique telle qu'elle se présentait: nous n'avons aucune raison de penser que ceci ne s'appliquerait pas aussi à *Northern Electric* en ce sens que l'on peut comparer son rendement à celui d'autres compagnies manufacturières qui opèrent dans le même milieu général et qui n'ont rien à voir avec un service réglementé d'utilité publique. Cette épreuve montrera si *Northern Electric* ne s'écarte pas indûment de la moyenne généralement acceptée des normes courantes de rendement qui prévalent dans les autres compagnies industrielles. La Commission est bien au courant du fait que naturellement cette épreuve en elle-même ne saurait prouver d'aucune façon que les prix qui sont demandés par *Northern* à *Bell* sont raisonnables, mais elle démontre que le taux de rendement du capital

global de *Northern* reste dans les limites des bénéfices qui sont normalement obtenus par d'autres entreprises manufacturières et qu'elle ne le dépasse pas.

Nous avons aussi examiné le taux de rendement global des bénéfices de *Western Electric* aux États-Unis puisque les rapports de cette compagnie avec l'*A.T.&T.* et la *Bell* avaient été décrits par certains défenseurs comme ayant des ressemblances pouvant se révéler utiles pour les rapports qui existent entre *Bell* et *Northern* nonobstant les données sur le coût qui ont été fournies par *Western Electric* au comité de NARUC et malgré la décision de la Commission de la Californie qui nous a été citée, il semble d'après l'étude faite en 1964 par NARUC, que les bénéfices de *Western Electric* sur ses placements nets pour la période de neuf ans qui s'est écoulée de 1955 à 1963, se sont établis à une moyenne de 10.1 p. 100 s'échelonnant d'un minimum de 9.3 p. 100 en 1958 à un maximum en 1956 de 10.6 p. 100. Ce rendement sur les investissements nets représente le terme de comparaison le plus proche que l'on puisse découvrir avec le rendement du capital global de *Northern Electric* lequel, selon le document n° B-57 de *Bell*, s'établissait en moyenne à 9.46 p. 100 pour la même période de neuf ans et s'échelonnait entre un minimum en 1961 de 5.98 p. 100 et un maximum de 13.5 p. 100 en 1955. L'échelle des opérations de *Western Electric* est beaucoup plus étendue que celle de *Northern Electric* et *Western Electric* à la différence de *Northern Electric*, n'a essentiellement qu'un seul client: les compagnies d'exploitation de *Bell* aux États-Unis. A la lumière des conclusions précédentes il ne semble pas que le taux de rendement global de *Northern* soit déraisonnable. Nous avons, en outre noté que la clause du "client le plus favorisé" dans le contrat passé entre *Bell* et *Northern* ne signifiait pas nécessairement que l'on ferait payer à *Bell* des prix permettant un bénéfice plus élevé que la normale pour ces transactions, et ne signifiait pas non plus, comme le suggérait l'*Industrial Wire and Cable Company Limited*, que les bénéfices de *Northern* sur ses transactions avec *Bell* se trouveraient plus élevés que dans le cas des autres transactions et on nous a demandé de réclamer à *Bell* des témoignages supplémentaires afin que la Commission puisse effectuer une vérification supplémentaire pour voir si le niveau général des prix payés par *Bell* à *Northern* était de nature raisonnable; nous avons, par conséquent, demandé à *Bell* de nous fournir un état détaillé des bénéfices de *Northern* sur le capital qu'elle consacre aux transactions qu'elle fait avec *Bell* et sur celui qui a trait aux autres transactions. On nous a fourni cet état détaillé et nous avons examiné les méthodes et les procédés qui ont servi à l'établissement de cet état.

Nous avons conclu que le rendement du capital consacré par *Northern Electric* aux transactions avec *Bell* était inférieur à celui qu'elle retirait de son capital affecté aux autres affaires. Nous avons aussi conclu que le rendement du capital affecté aux transactions avec *Bell* était raisonnable et nous considérons que ceci constitue une preuve supplémentaire qu'actuellement le niveau

général des prix payés par *Bell* à *Northern Electric* n'est pas déraisonnable. Nous continuerons à étudier d'année en année les bénéfices réalisés par *Northern* dans le cas du capital affecté aux transactions avec *Bell* et de celui affecté aux autres transactions.

Nous rejetons la proposition largement étayée sur la décision citée de la Commission de la Californie aux fins que les bénéfices de *Northern* sur les transactions avec *Bell* devraient être réduits au niveau de bénéfices permis à *Bell* dans le cas de ses opérations d'utilité publique. Il est à peu près certain que *Bell* et ses abonnés obtiennent des avantages de l'association de *Bell* avec *Northern*; avantages qui seraient inexistants si *Northern* devait restreindre ses transactions à celles concernant *Bell* et que l'échelle des opérations de *Northern* et l'utilisation de ses installations seraient totalement différentes et le coût par unité serait plus élevé si *Northern* devait limiter ses opérations à celles faites avec *Bell*. Même si la *Northern* bénéficie en fait d'un marché assuré par les besoins de *Bell*, il est évident que celle-ci ne lui prend pas toujours ou constamment la même proportion de son volume de production mais une proportion variable de celui-ci. Les profits de *Northern* sur ces transactions avec *Bell* et sur ses autres affaires ont aussi varié d'année en année. Néanmoins les bénéfices de *Northern* sur ses transactions avec *Bell* n'ont pas en fait dépassé de beaucoup la marge de bénéfices que *Bell* retire de l'exploitation de ses propres services d'utilité publique. Les risques et les incertitudes d'une exploitation manufacturière sont, à notre avis, différents de ceux qui résultent de l'exploitation d'un service public, et il n'y a pas grand chose qui puisse justifier de limiter le taux de rendement d'une entreprise fournissant des produits et des services à *Bell* au taux de rendement jugé raisonnable pour un service d'utilité publique.

A la connaissance de la Commission, la Commission sur les services publics de la Californie est le seul organisme de réglementation aux États-Unis qui ait restreint la marge de profits d'un fournisseur affilié à celle réalisée par l'entreprise réglementée d'utilité publique. A ce sujet nous avons noté les points suivants dans un article récent de M. A.J.G. Priest, professeur de droit à l'université de Virginie et qui est tiré de la publication *Public Utilities Fortnightly* (Vol 77 Numéro 3 du 3 février 1966)

"Au cours des récentes délibérations sur le *Bell System* qui ont eu lieu devant la Commission des services publics du district de Columbia, la *General Services Administration* (GSA) a enjoint à cet organisme de se conformer aux mesures adoptées en Californie et consistant en ce que la marge des bénéfices du service manufacturier d'un service public soit la même que celle du service public qu'il dessert, mais la Commission du district de Columbia déclare "la fausseté de la situation de la GSA est indiquée dans le mémoire soumis par le demandeur."

Sauf (1) en ce qui concerne les décisions de la Californie aux fins d'établissement des tarifs, qui ont transformé la *Western*, société manufacturière, en un service d'utilité publique, et (2) en ce qui concerne les rajustements moins importants effectués par les Commissions du Michigan et du Missouri, et (3) en ce qui concerne la décision anormale justement citée de la Commission du district de Columbia, les prix demandés par *Western* ont servi constamment à la Compagnie d'exploitation *Bell* pour établir le coût de ses tarifs. Les prix et les bénéfices ont été considérés comme raisonnables tant dans le cas de la comptabilité de l'entreprise que pour l'établissement des dépenses d'exploitation, dans le cas de plus de 200 procès-verbaux dans lesquels des témoignages détaillés ont été apportés pour la défense de *Western*."

En résumé, donc, nous en arrivons à la conclusion suivante au sujet de cette question: que *Bell* et ses abonnés tirent des avantages de l'association de *Bell* avec *Northern Electric*, avantages qui ne pourraient exister si *Northern Electric* restreignait ses opérations aux transactions avec la Compagnie *Bell* simplement; que le taux global moyen de rendement de *Northern Electric* sur le capital reste comparable à celui des autres organisations industrielles similaires; que le taux global de rendement de *Northern* sur le capital n'est pas en moyenne différent de celui de *Western Electric* aux États-Unis, qu'il n'y a pas de raison pour que le taux de rendement de *Northern* sur le capital qu'elle consacre aux transactions avec *Bell* ne soit, à l'heure actuelle, restreint au niveau autorisé de bénéfices pour la Compagnie *Bell*; que le taux de rendement du capital de *Northern* consacré aux transactions avec *Bell* est moins élevé en moyenne que le taux de rendement de son capital qui est consacré à ses autres transactions; que le taux de rendement sur le capital de *Northern* qui est affecté aux transactions avec *Bell* n'est pas déraisonnable à l'heure actuelle et n'est pas beaucoup plus élevé que le taux de rendement de *Bell* dans sa propre exploitation et que le niveau général des prix que *Northern* demande à *Bell* est aussi bas ou plus bas que les prix qui sont payés à *Northern* par les autres compagnies et que ce niveau général de prix n'est nullement déraisonnable.

f) Le niveau autorisé de bénéfices et les bases de son évaluation:

Les témoignages et les plaidoyers sur cette question qui ont été détaillés ci-dessus sont résumés ci-après:

Témoignages de la Compagnie: sections 2(i) i); 2(i) j) et 2(i) k);

Témoignages de la *United Electrical, Radio and Machine Workers of America*: section 2(ii);

Témoignages du parti communiste du Canada: section 2(iii);

Témoignages de la Fédération canadienne des maires et des municipalités, et autres: section 2(v);

Plaidoyers de la Compagnie: sections 3 a) (8); 3 a) (9); 3 a) (10); 3 a) (11); 3 a) (12); et 3 a) (13);

Plaidoyers de la Fédération canadienne des maires et des municipalités, et autres: sections 3 c) (8); 3 c) (10) et 3 c) (12), et

Plaidoyers en réponse de la Compagnie: section 3 d) (4).

Il n'est pas nécessaire de les examiner en détail pour en arriver à nos conclusions:

Les positions prises en général par la Compagnie et les défenseurs sont les suivantes: la Compagnie déclare qu'on devrait lui permettre un taux de rendement global de 7 p. 100 sur la totalité de son capital moyen en circulation. Un tel taux de rendement global fournirait un rendement d'environ 8.5 p. 100 sur le capital-actions moyen. La compagnie considère que ce taux de rendement global de 7 p. 100 peut servir de base raisonnable d'établissement d'une échelle des taux de rendement mais, comme la Compagnie le déclare, celle-ci est si éloignée actuellement d'atteindre ce minimum qu'elle prétend ne pas pouvoir définir de limite supérieure pour la "zone de latitude raisonnable" et elle ne pense pas que cela soit nécessaire.

Elle préconise que la Commission donne deux conclusions:

- 1) que les bénéfices de la Compagnie pour l'année 1964 n'excédaient pas un niveau juste et raisonnable; et
- 2) que de tels bénéfices pour l'année 1964 n'atteignaient pas la limite supérieure du niveau autorisé des bénéfices.

D'un autre côté, les municipalités considèrent que la Commission devrait fixer un taux de rendement spécifique sous la forme d'un pourcentage de capital-actions ou de la totalité du capital ou que la Commission devrait fixer des bénéfices déterminés par action. Les municipalités déclarent qu'elles sont prêtes à concéder à la Compagnie un taux de rendement de 7 p. 100 sur le capital-actions ou de 6.1 p. 100 sur la totalité du capital, mais qu'elles rejettent la suggestion d'établir une "zone de latitude raisonnable".

En résumé, la situation de la Compagnie est basée sur les considérations suivantes: qu'un rendement raisonnable pour la Compagnie est un "rendement concurrentiel"; un rendement que le capital pourrait obtenir dans les entreprises qui se font concurrence pour des risques correspondants; qu'un tel rendement raisonnable devrait permettre à la Compagnie d'attirer suffisamment de capital pour financer l'entreprise, que les règlements tout en empêchant l'obtention de bénéfices de monopole devraient stimuler la recherche d'un bénéfice d'efficacité en gérant le rendement raisonnable dans des limites raisonnables; que les bénéfices par action ne devraient pas être considérés à part de la valeur comptable par action; qu'au cours de la période de 1947 à 1963, la comparaison du rendement financier des actions ordinaires de *Bell* avec celui des autres actions

industrielles canadiennes et celui des actions industrielles aux États-Unis et avec celui des services publics aux États-Unis indique que les bénéfices de *Bell* sur ces actions et leur hausse sur le prix courant par action sont bien moindres que ceux de tout autre groupe d'entreprises avec lesquelles on pourrait raisonnablement la comparer; que ce qui doit nous guider en fait de niveau raisonnable de bénéfices, c'est le rendement qui existe dans les autres compagnies pour un risque semblable; et que le rendement raisonnable des bénéfices sur les actions ordinaires dans le cas de *Bell* s'échelonnent entre le niveau équivalant redressé des bénéfices des services publics aux États-Unis (8.6 p. 100) jusqu'au niveau de 10 à 12 p. 100 de bénéfices des valeurs industrielles.

On donne aussi d'autres considérations en faveur de la position de la Compagnie: la réduction de la couverture des frais sur les intérêts depuis 1952; le coût relativement plus élevé des émissions d'obligations; la baisse du rendement des bénéfices des actions de *Bell* au cours de la dernière moitié des années dix-neuf-cent cinquante à la suite de laquelle, fin 1959, la Compagnie avait augmenté le taux de ses dividendes; le besoin de trouver un demi-milliard de dollars dans les cinq années à venir sur un marché des capitaux où la concurrence se fait de plus en plus vive; le rôle croissant des entreprises et des institutions professionnelles de placement qui s'est traduit par une augmentation du nombre des actions de *Bell* détenues par de telles institutions; le fait que les actionnaires avaient subi de réelles pertes entre les années 1946 et 1963; et que les valeurs des droits n'avaient pas été compensées par des bénéfices suffisants; le fait que les bénéfices de *Bell* pour la période allant de 1946 à 1963 avaient été plus faibles que ceux des compagnies mentionnées dans le document n° B-65; compagnies qui ne s'étaient pas souciées du maintien de la stabilité des placements de leurs actionnaires.

La situation des municipalités, en résumé, apparaît comme fondée sur les considérations suivantes: que le rendement réel pour les investisseurs de *Bell* était plus élevé que le rendement apparent du fait des avantages résultant des bénéfices réinvestis par *Northern* et des gains de capital exemptés d'impôt provenant des droits; que la fixation d'une base pour le taux de rendement amènerait la confusion et la spéculation et résulterait probablement, à très courte échéance, en une augmentation des tarifs téléphoniques; que les compagnies qui servaient de comparaison à *Bell* comme dans le cas de ses bénéfices ne pouvaient en fait répondre à ce rôle; que des règlements devraient être établis sur le coût des services, y compris les coûts du capital que le critère idéal pour juger des coûts du capital était la proportion des bénéfices accumulés par rapport aux bénéfices nets via les souscriptions, critère qui ne s'appliquait pas dans le cas de *Bell*; que la proportion des bénéfices accumulés par rapport aux bénéfices nets via les émissions de droits n'indiquait que le coût maximum du capital; qu'en tenant compte des rapports bénéfices-prix on obtenait comme niveau autorisé des bénéfices, le taux de 7 p. 100 du capital-actions. A ce sujet, la

Compagnie a mis en doute la validité des rapports bénéfices-prix comme indication du coût du capital-actions, surtout parce que le raisonnement est suspect et ne répond pas logiquement aux fins de la réglementation.

Nous n'avons pas naturellement passé en revue tous les arguments qui nous ont été présentés, ceux-ci sont exposés dans leur ensemble dans les résumés des témoignages et des plaidoyers et nous les avons tous dûment examinés.

Les municipalités et la Compagnie sont d'accord sur le fait qu'il est préférable d'établir une base sur un taux de rendement plutôt que de fixer un niveau autorisé des bénéfices. Les municipalités semblent favoriser l'application d'un taux de rendement semblable aux seules actions alors que la Compagnie semble vouloir en étendre l'application à la totalité du capital moyen investi. Après avoir soigneusement étudié ceci, nous sommes persuadés que le calcul d'un niveau autorisé de bénéfices pouvant servir de mesure pour évaluer le caractère juste et raisonnable de la structure des tarifs dans leur ensemble devrait revêtir la forme d'un pourcentage de la capitalisation moyenne totale de la Compagnie. Nous ne sommes pas de l'avis que ce pourcentage ne devrait s'appliquer qu'au seul capital-actions.

Les municipalités et la Compagnie ne sont pas d'accord sur la question de savoir s'il vaudrait mieux fixer un pourcentage sous forme de marge raisonnable ou sous celle d'un chiffre unique. Les municipalités insistent pour que l'on fixe un chiffre unique et la Compagnie désirerait une échelle qui aurait une base mais aucun plafond. Comme nous l'avons fait remarquer précédemment dans la section 4 c), les circonstances et les conditions qui affectent la Compagnie ne sont pas fixes mais elles changent continuellement. Nous avons aussi expliqué que la Commission s'évertuait à rester pratique et à prendre en considération ces changements. Nous ne sommes donc pas certains que le caractère raisonnable puisse être fixé sans qu'il ne se produise de changements. Nous proposons par conséquent d'utiliser une échelle de bénéfices proportionnels à la totalité de la capitalisation moyenne mais il s'agira d'une échelle relativement peu importante car ses limites seront définies avec précision.

Comme nous l'avons fait remarquer ci-dessus, il existe aussi une différence de point de vue entre la Compagnie et les municipalités au sujet du montant proportionnel de la totalité de la capitalisation moyenne qui se trouverait justifié et raisonnable comme niveau autorisé des bénéfices dans les conditions actuelles ou immédiatement prévisibles. La Compagnie, en se basant principalement sur une comparaison de ses bénéfices avec ceux des autres compagnies et des autres services publics est en faveur d'un rendement de 7 p. 100 sur la totalité de la capitalisation moyenne alors que les municipalités, se basant sur le rapport bénéfices-prix, sont en faveur d'un 7 p. 100 sur les actions, équivalant à 6.1 p. 100 de la totalité de la capitalisation moyenne. Après avoir sérieusement examiné l'affaire, nous ne pouvons être d'accord avec aucun des deux pourcentages qui nous ont été proposés.

Nous sommes d'avis que, sur la foi de tout ce qui nous a été présenté et à la lumière de l'expérience de ces huit dernières années et compte tenu des conditions courantes ou immédiatement prévisibles, que le taux de rendement global du capital en circulation pour la Compagnie tel qu'il est défini au TABLEAU II DE LA COMMISSION devrait se situer entre 6.2 p. 100 et 6.6 p. 100 en ne tenant pas compte des fractions de moins de 0.05 p. 100 dans les calculs et en relevant le montant des fractions de 0.05 p. 100 et plus au dixième supérieur de un pour cent. Ceci ne veut pas dire cependant que la Commission accepterait nécessairement la capitalisation effective moyenne dans la situation où elle peut se trouver à un moment ou à un autre car la Commission considère qu'elle devrait être libre de procéder à tout rajustement d'une telle capitalisation si elle le juge nécessaire. Dans les délibérations présentes la Commission accepte la capitalisation moyenne effective comme base de ses calculs.

Nous concluons donc que la structure des tarifs de la Compagnie dans son ensemble est équitable et raisonnable en ce sens qu'elle ne favorise pas de bénéfices donnant lieu pour la Compagnie à un rendement sur la totalité de la capitalisation moyenne qui s'établirait au-dessus de 6.6 p. 100. Une telle conclusion ne doit pas être interprétée comme une garantie de rajustements ascendants de la structure des tarifs qui permettraient des bénéfices à l'intérieur de cette marge; il s'agit simplement de la façon dont la Commission évalue actuellement si la présente structure des tarifs est dans son ensemble équitable et raisonnable. Ceci ne veut pas non plus dire, que les rajustements qui sont d'usage courant pour certaines parties de la structure des tarifs ne pourront plus être soumis de temps à autre à la Commission afin qu'elle n'en fasse l'étude et ne leur donne son approbation si les circonstances le justifient, mais elle exclut toute tendance à la hausse dans le rajustement des tarifs locaux autres que les rajustements spéciaux qui peuvent être nécessités par les processus de regroupement normal qui ont été établis par la Commission à la suite des changements de l'étendue des secteurs d'appel local.

La Compagnie a obtenu un rendement de 6.6 p. 100 sur le total de son capital moyen en circulation pour l'année 1965 et elle a par conséquent atteint le sommet de la marge autorisée que nous avons établie comme étant équitable et raisonnable pour le moment. Si les bénéfices de la Compagnie dépassaient ce maximum, la Commission demanderait à la Compagnie de fournir à la Commission des propositions de réductions de la structure des tarifs, qui seraient destinées à ramener les bénéfices de la Compagnie à une marge autorisée, celle que nous avons établie comme étant équitable et raisonnable à l'heure actuelle.

g) Les conclusions de la Commission en ce qui concerne les principales questions en cause

Nos conclusions à la suite de ces délibérations en ce qui a trait aux principales questions en cause sont les suivantes:

1) *En ce qui concerne la Northern Electric Company Limited*

Sur la foi des témoignages, la Commission conclut qu'à l'heure actuelle les investissements de *Bell* dans la *Northern Electric* ne sont pas en fait préjudiciables aux intérêts des clients de *Bell*; que les prix payés par *Bell* à *Northern Electric* sont aussi bas ou plus bas que les prix courants; que le taux de rendement global de *Northern* n'est pas excessif en comparaison de la moyenne générale des autres compagnies manufacturières d'un genre similaire et comparativement avec le taux de rendement dont bénéficie *Western Electric* aux États-Unis; que le taux de rendement obtenu par *Northern* pour ses transactions avec *Bell* est plus bas que celui qu'elle obtient pour ses transactions avec les autres compagnies; que le taux de rendement obtenu par *Northern* sur ses transactions avec *Bell* n'est ni déraisonnable ni bien plus grand que celui dont bénéficie *Bell* à titre de service d'utilité publique; et que la Commission ne pense pas que le taux de rendement de *Northern* dans le cas des transactions avec *Bell* devrait être actuellement limité aux taux de rendement que la Commission estime raisonnable dans le cas de *Bell*.

2) *En ce qui concerne le niveau autorisé des bénéfices*

Compte tenu des réserves qui ont été détaillées dans la section 4 f) susmentionnée nous concluons que la structure générale des tarifs de la Compagnie est équitable et raisonnable actuellement si on la considère par rapport à un niveau autorisé de bénéfices allant de 6.2 p. 100 à 6.6 p. 100 de la totalité de la capitalisation moyenne.

(signature) ROD KERR

(signature) H.H. GRIFFIN

(signature) J.E. DUMONTIER

Ottawa,
le 4 mai 1966.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

PROPOSED AMENDMENTS TO CANADIAN CAR DEMURRAGE RULES AND CHARGES

File 1700

May 20th, 1966.

BEFORE:

Rod. Kerr, Q.C.

Chief Commissioner.

W. R. Irwin

Commissioner.

A. S. Kirk

Commissioner.

Heard at Ottawa, January 11th and 12th, 1966.

APPEARANCES:

K. D. M. Spence, Q.C. }
and
R. J. Madge }
H. J. G. Pye }

*Canadian Car Demurrage Bureau
for and
Canadian Pacific Railway Company.
for Canadian Car Demurrage Bureau, and
Canadian National Railways.*

Evan McCormack }
and
V. M. Stechishin }
A. E. Berry }
J. W. Cargill }
T. M. Kidd }
Craig S. Dickson }
R. G. Belfoi }
E. Lorne Tracey }
R. Eric Gracey }
and
Roy M. Renwick }
R. E. Barron }
and
John Edgar }
A. K. Archibald }
and
John M. Nolan }
56 B.T.C. }

*for Winnipeg Chamber of Commerce.

for United Grain Growers Limited.
for Canadian National Millers Assoc.
for Canadian Fruit Wholesalers' Assoc.
for Maritimes Transportation Commission.
for Province of British Columbia.
for Montreal Board of Trade.*

for Canadian Industrial Traffic League.

for Canadian Manufacturers' Association.

for Aluminum Company of Canada

JUDGMENT

KIRK, Commissioner:

The Canadian Car Demurrage Bureau in its capacity as Agent for railway companies in Canada subject to the jurisdiction of the Board, filed a revised tariff of "Canadian Car Demurrage Rules" designated as C.T.C. (F) No. 7, superseding tariff C.T.C. No. 6, to become effective August 30th, 1965. Prior to the said effective date the Agent filed supplement 2 thereto postponing the effective date to October 1, 1965.

Numerous objections to the new tariff were received by the Board and Order No. 118557 was issued on September 27th, 1965 suspending the said tariff until further Order of the Board.

The matter was heard in Ottawa on January 11th and 12th, 1966, at which time 221 pages of evidence and argument were presented and 25 exhibits were filed, all of which have been given consideration.

Prior and subsequent to the hearing, the Board received written submissions from the following:

Hon. J. J. Greene (on behalf of pulpwood shippers in the Riding of Renfrew South).

St. Lawrence Iron & Metal Inc., Montreal.

Chown, Cooke & Chown, Renfrew, Ontario (on behalf of pulpwood shippers in Renfrew County).

Saskatchewan Wheat Pool, Regina, Sask.

Western Retail Lumbermen's Association, Winnipeg, Man.

Minister of Industry & Commerce, Province of Manitoba.

North-West Line Elevators Association.

Regina Chamber of Commerce.

Canadian Feed Manufacturers National Association.

The changes which the new tariff proposes are as follows:

"Rule 4. Free Time Allowances"

Exception (A) which now reads:

"In that part of Canada, Port Arthur and west, in which Sections 68 to 72 of the Canada Grain Act R.S.C. 1952 applies, only twenty-four hours free time shall be allowed for loading grain during the months of September, October and November."

is amended to read:

"In that part of Canada, Port Arthur and west, only twenty-four hours free time shall be allowed for loading grain during the months of September, October and November."

“Rule 10, Industrial Strikes”

Present rule requires that claims be filed for the relief the Rule provides.

The new tariff substitutes Rule 7 with the same provisions for relief but without requiring adjustment by claims.

“Rule 9. Demurrage Charges”

	<u>Present</u>	<u>Proposed</u>
For each of the first four days of delay	\$4.00	\$ 5.00
For each of the 5th, 6th, 7th and 8th days of delay	8.00	10.00
For the 9th and each succeeding day of delay	8.00	15.00

The tariffs and the changes mentioned above do not apply to export, import or furtherance traffic; detention charges on refrigerator cars and other special arrangements, as set out in tariffs of individual carriers.

I shall deal later with the change of wording respecting grain loaded in Western Canada, and with the application for extended free time for loading pulpwood in Renfrew County. A brief summary of the evidence re proposed rates is as follows:

The railways, in justification for the change in demurrage rates, submit that delays in releasing cars are increasing and that the only effective remedy which they can apply to promote greater car utilization is to increase the demurrage penalty charges; that despite improved operating performance by the railways and the acquisition of new car equipment, the available car supply in detrimentally affected and that measured by the number of cars released within the free time allowed a worsening trend is indicated.

The railway evidence included the assertion that apart from the detrimental effect upon available car supply the delays in releasing cars adversely affected gross revenue; that the average gross revenue per car day approximated \$15.80 and that demurrage charges had not increased in keeping with the increased cost of acquiring equipment.

In the period 1960-1965 the Canadian National Railways purchased 6,189 cars of various types at a cost which averaged \$15,000 per car. Similarly, the Canadian Pacific Railway purchased 8,548 cars at an average cost of \$14,500 per car.

Canadian Pacific exhibit 10 shows the average cost per box car purchased in 1960 was \$9,162 and in 1965 \$17,863; Flat cars in 1960 \$10,918 and in 1965 \$16,500. Canadian National exhibit 9 shows in 1957 the price of box

cars was \$8,607 whereas in 1964 it was \$18,537; Mechanical Refrigerators in 1960, \$25,000 and in 1965 \$31,390; Flat cars in 1960, \$10,182 and in 1964 \$13,320. Other comparisons in the same exhibits indicated similar trends. Railway witnesses admitted that differences in the dimensions and other features of the equipment occurred between the two periods. Exhibit 11 of Canadian Pacific compared the cost of 40'6" box cars in each year from 1929 to 1962 and shows that in 1960 the cost was \$9,350 and in 1962 \$10,780.

In respect of operating performance, Exhibits 8 and 13 show the following:

		<u>1960</u>	<u>1965</u>
Revenue cars loaded and received from connections (Thousands):-			
	CNR	2127	2220
	CPR	1609	1663
Average load per car (tons):-			
	CNR	31.4	36 *
	CPR	38.1	46.2 †
Freight car miles per freight car day:	CNR	41.6	57.5 *
Net ton miles per serviceable car day:			
	CNR	878	1228 *
	CPR	942	1363 *
Percent serviceable freight cars on line:			
	CNR	93.9%	95.9% *
	CPR	96.8%	97.0%

* As of October 31

† As of August

To illustrate the contention that delays in releasing cars were increasing, the Bureau submitted several exhibits. Of these, Exhibit 3, for each of the years 1960-1964 and the first 10 months of 1965, compared the number of cars reported, the percentage released in free time, and the number of cars delayed for each of the first five days and over five days beyond free time. The exhibit shows these data separately for Eastern and Western lines and in total for all Canada. The data shown on the exhibit for 10 months of 1965 have been adjusted to the full year inasmuch as the figures therefor are now available. The percentages released in free time are:

	<u>Eastern</u>	<u>Western</u>	<u>All Canada</u>
1960	94.30	96.54	95.16
1961	94.45	96.68	95.29
1962	94.08	96.83	95.05

	<u>Eastern</u>	<u>Western</u>	<u>All Canada</u>
1963	94.11	96.90	95.14
1964	93.66	96.80	94.78
1965	92.45	96.30	93.80

From these data I have extracted the number of cars delayed beyond free time for each of the day delay periods of 1965. It is a representative showing, as the railways contend that the greatest delay occurs in the first four days after expiration of free time. The comparison is as follows:

<u>Delays of</u>	<u>Eastern</u>	<u>Western</u>	<u>All Canada</u>
One day	92,594	29,003	121,597
Two days	44,487	12,270	56,757
Three days	18,768	4,918	23,686
Four days	<u>14,441</u>	<u>3,541</u>	<u>17,982</u>
Total for period	170,290	49,732	220,022
Five days	12,457	3,034	15,491
Over 5 days	<u>40,960</u>	<u>9,196</u>	<u>50,156</u>
Total 5 days and over	<u>53,417</u>	<u>12,230</u>	<u>65,647</u>
Total cars delayed	223,707	61,962	285,669

Exhibit 5 of the Bureau shows a comparison, by months, for the years 1959 and 1960 of the delays beyond free time in relationship to the change in demurrage rates which took place January 1, 1960. The change in rates at that time was:

<u>Delay beyond free time:</u>	<u>1959</u>	<u>1960</u>
First & second day	\$3	\$4
Third & fourth day	5	4
Fifth & succeeding days	7	8

The record of cars delayed for each of the two years is as follows:

	<u>Eastern</u>		<u>Western</u>	
	<u>1959</u>	<u>1960</u>	<u>1959</u>	<u>1960</u>
Per cent released in free time	92.15	94.30	94.89	96.54

	<u>Eastern</u>		<u>Western</u>	
	<u>1959</u>	<u>1960</u>	<u>1959</u>	<u>1960</u>
Cars delayed beyond free time:				
One day	104,772	77,200	40,460	28,688
Two days	53,908	32,235	18,393	10,940
Three days	27,528	12,863	9,570	4,120
Four days	16,026	8,781	5,620	2,976
Five days	9,633	7,523	3,275	2,374
Over five days	21,707	21,998	8,441	6,793

The railways suggest that this exhibit illustrates the beneficial effect upon car supply that flowed from the changes in the demurrage rates, but it was pointed out by opposing parties that the rate change in respect of the third and fourth day was a decrease.

Concerning the apparent better performance in western territory than in eastern, which opposing parties have pointed out, the railways stated that the number of cars reported in western territory does not include grain cars moving to and unloaded at terminal points, such as the Lakehead, upon which no demurrage is assessed. No evidence was given as to the effect the inclusion of such traffic would produce, but the railways pointed out that during the month of May 1959, when for a short period terminal grain was subject to the demurrage tariff, the percentage of cars released in the free time decreased from 95.24% in April to 93.96% in May and was 94.91% in June.

In summary, the railways submitted that:

1. Car detention increased in 1964 vs. 1963 and in 1965 vs. 1964 in all categories and in both eastern and western territories.
2. Car days lost in eastern territory were 598,000 in 1964 and would be a minimum of 770,000 in 1965; and in western territory were 120,600 and 149,000 respectively.
3. There is a constant delay in the ability to supply cars.
4. Full utilization of equipment would have rendered large expenditures on new equipment unnecessary.
5. Improved operating performance of railways is being defeated by increased car detention.
6. Proposals by opposing parties of differing treatment in respect of territories, goods, type of cars and specific shippers or consignees would lead to unjust discrimination; that uniform application of demurrage charges affects only those who elect to incur the penalties.

7. The only effective deterrent is the charge and that the proposed tariff is neither unjustly discriminatory nor unreasonable.

Turning now to the representations made by parties opposing the change in tariff. There was evident agreement that increased charges for cars delayed beyond four days after free time are justified in that in this area the detention of cars could be considered as retention for storage purposes.

The data compiled by the Bureau and filed as exhibits were generally distributed to those in opposition prior to the hearing, with the exception that for the year 1965 the data comprised only 5 months whereas the Bureau exhibits were up-dated to ten months. Various conclusions were drawn from such data and mainly repetitive exhibits submitted in evidence.

It was contended, in general, that there should be no change in demurrage rates for the first four days of delay after free time; that delays in releasing cars frequently arise from causes beyond the control of industry or resulted from irregularity in railway service.

Western parties contended that the worsening trend is not apparent in western territory and that if it has occurred in eastern territory the west should not be penalized.

Suggestions were made that instead of attempting to impose heavier demurrage charges the railways should offer inducements for prompt release, seek to maintain contact with industries at higher levels of management in an effort to persuade rather than penalize, and apply a customer oriented approach similar to that employed in the solicitation of business. It was also suggested that the railways should have power to deal firmly and specifically with delinquent car users without applying increased penalties to both good and bad customers.

A comprehensive and impressive analysis of demurrage history was submitted by United Grain Growers Limited. Therein it was illustrated that the present situation was not materially different than in the early 1940's when demurrage rates were materially lower; that a relatively small percentage of cars are held beyond free time which does not justify the increased charges; and that approximately 99% of cars are released within five days after expiration of free time.

Submissions were made that demurrage should be related to per diem; that cars accruing per diem, such as cars held on United States railways, should not be treated as being in any way different to cars held under demurrage in Canada; and that per diem rates were established for different types of cars whereas demurrage charges make no such distinction.

Objecting parties also asserted that some of the expenditures made by the railways for new equipment were for specialized types and were part of the railways quest for return or retention of competitive traffic; and that improve-

ments effected in operating performance was also dictated by the necessity of attracting competitive traffic to their lines.

Representations made on behalf of the Fruit and Vegetable trade stressed the importance of that industry, the perishable nature thereof and that delays to cars were frequently attributable to the irregularity of railway service which created surplus and short supply of produce; that there is no shortage of refrigerator equipment and that the bulk of demurrage assessed upon this industry is for foreign cars.

Reference was made to the imposition of additional detention charges for refrigerator cars during part of the year which substantially increase the penalty for delay; and that the railways should be recommended to consider the elimination of the additional detention charges.

Opposing parties, generally, suggested that the handling of matters relating to delays in release should be localized rather than applying a uniform penalty to all.

A further point of opposition was that the incentive and competitive rates accorded by the railways usually require heavier loading with consequent need for a longer time for release of cars.

It was suggested also that the Canadian railways were patterning the new demurrage rates upon those instituted in the United States on July 1, 1964, which action had not resulted in improvement there. Further it is suggested that shippers and carriers should agree upon a reasonable demurrage period and scale of rates, thereafter the railways be freed of regulation and able to apply any remedy found necessary. This suggestion was followed by one that some commodities require only a few hours free time and others two or three days.

Witness Gracey, General Manager, Canadian Industrial Traffic League, speaking on behalf of its membership spoke in much the same vein as summarized previously. He stressed that modern methods should be employed to deal with car detention; that the Bureau and the League had cooperated to bring about the 1960 adjustment of the demurrage tariff and the League was prepared to continue doing so; and that a special committee should be set up by the railways composed of specialists in customer orientation to solve the demurrage problem. He tentatively suggested that such a committee could usefully review:

1. An acceptable level of car utilization.
2. Ways to increase utilization by:
 - (a) penalties
 - (b) incentives
3. Suitable free time period.

4. Graduated rates reflecting equipment values.
5. Means of stopping habitual offenders.
6. Methods of expediting processing of Bureau records.
7. Improvement in maintaining liaison with shipper groups.

With the exception of the representations made in respect of pulpwood shippers, the written submissions are substantially in the same vein as those voiced in opposition during the hearing. I shall deal later with the matter of pulpwood cars. Certain of the submissions deal also with the question of the free time allowance on grain in western Canada which subject, as I have already indicated, will also be dealt with later.

COMMENTS AND CONCLUSIONS:

Demurrage charges and governing regulations have been dealt with by the Board on many occasions since the inception of the Board. On January 25th, 1906 the Board issued its first Order in respect of demurrage, disallowing all charges and rules then in use and prescribing uniform charges and rules for the future. The preamble to the Order stated:

"Whereas numerous complaints have been made to the Board of Railway Commissioners for Canada with respect to the charges made by railway companies for delay in the loading and unloading of cars, and the rules regulating the same;

And whereas it appears to the Board that all such charges and rules should be disallowed, and that, in cases in which railway cars are, or are to be, loaded or unloaded by shippers or consignees, railway companies should be authorized, subject to the rules hereinafter contained, and by way of compensation for unduly prolonged detention and use of cars and use of tracks, to increase, as hereinafter specified, their tolls upon traffic carried or to be carried in carloads, or at carload rates;

And whereas it appears to the Board to be important, in the public interest, to secure the fullest possible use of railway cars, tracks, and equipment, and for that object to discourage the delay aforesaid," (Order No. 906)

The principle of public interest has been and continues to be the predominant factor in the Board's disposition of the many and varied subjects submitted from time to time. In 1958, dealing with demurrage at Terminal Elevator points, it was stated:

"Railway equipment...can only be profitable to the railways when it is employed in the service of transporting goods from one place to another and can only be of the greatest value to shippers when it is available for

the transportation of their goods. It is in the interest of both the shippers and the railways that the railway equipment furnished for the accommodation of traffic be promptly loaded and unloaded.

In order to discourage the detention of railway equipment for any purpose beyond a reasonable time for loading or unloading, the railways assess a per-car-per-day charge for such detention. ...It is in part a penalty for the undue detention of railway equipment and in part compensation to the railways for detention of their equipment for storage purposes."

(North-West Line Elevators Ass'n et al.

v. Canadian Car Demurrage Bureau et al.

77 CRTC 181 at pp. 187-8)

Decision in the above matter was appealed to the Supreme Court of Canada and there affirmed. The Court said, inter alia:

"Delay in loading or unloading cars of freight violates the implied understanding when equipment is placed at the disposal of shipper or consignee that no more than reasonable time shall be taken for either purpose. The profitable and efficient use of equipment is an important item of the costs reflected in the freight rates charged and is an essential in good railway management.

Under the Act the Board has no jurisdiction in effect to compel a railway to give a service or suffer an economic detriment of such a nature without appropriate compensation;"

(77 CRTC at p. 244)

In "Shipping Federation v. Railway Association" 56 CRTC at p. 31, the Board said:

"The rules and charges governing demurrage ... are, I think, meant to embrace two distinct elements: (1) compensation for the use of cars and tracks, and (2) a penalty designed to prevent undue detention of cars, and to ensure their prompt return to public service."

but the proportions attributable to each of these elements was not defined. The railways stated in evidence, in this case, that the average gross revenue per car-day approximates \$15.80 but this figure would be considerably less if expenses were taken into account as they must be if the car is earning gross revenue. Since the disposition that I would make of this case is not dependent upon the factor of revenue, I do not propose to speculate upon what part of the demurrage charge is for recovery of lost revenue or is a penalty as an incentive to expedite the release of car equipment. Of course as the demurrage charge for longer detention increases the factor of penalty comes more into play.

The railways' case, however, is predicated more particularly upon the alleged worsening trend in car releases. To measure this contention it was necessary to determine the total number of cars detained on each day following expiration of free time. Obviously cars detained more than one day were also detained on the first day, and so on. From these computations the percentages of total cars reported was obtained, as follows:

EASTERN CANADA:

**Cars delayed beyond free time as
percentages of total cars reported**

Year	1 Day	2 Days	3 Days	4 Days	5 Days	Over 5 Days
1960	5.70%	2.96%	1.82%	1.36%	1.05%	0.79%
1961	5.55%	2.79%	1.70%	1.26%	0.96%	0.70%
1962	5.92%	3.18%	1.96%	1.48%	1.13%	0.83%
1963	5.89%	3.18%	1.98%	1.53%	1.17%	0.86%
1964	6.34%	3.45%	2.25%	1.74%	1.34%	1.00%
* 1965	7.54%	4.43%	2.92%	2.29%	1.80%	1.39%

WESTERN CANADA:

1960	3.64%	1.69%	1.01%	0.75%	0.57%	0.41%
1961	3.32%	1.62%	0.97%	0.74%	0.56%	0.41%
1962	3.16%	1.46%	0.83%	0.61%	0.45%	0.31%
1963	2.98%	1.32%	0.69%	0.60%	0.44%	0.32%
1964	3.20%	1.55%	0.93%	0.71%	0.55%	0.40%
* 1965	3.71%	1.96%	1.24%	0.94%	0.73%	0.55%

ALL CANADA:

1960	4.88%	2.50%	1.52%	1.14%	0.88%	0.65%
1961	4.71%	2.38%	1.42%	1.06%	0.81%	0.59%
1962	4.96%	2.54%	1.54%	1.16%	0.88%	0.64%
1963	4.88%	2.53%	1.52%	1.17%	0.90%	0.66%
1964	5.22%	2.83%	1.78%	1.37%	1.06%	0.79%
* 1965	6.17%	3.54%	2.32%	1.81%	1.42%	1.08%

* Exhibit No. 3 showed only 10 months. The full year is now available.

These data substantiate the railways' contention that detention is worsening. While the trend in this respect is mainly from the year 1963, it is sufficiently serious to warrant appropriate action. The increase in the ratio of cars detained to total cars reported is very significant.

During the hearing certain of the opposing parties suggested that the better performance shown in respect of the West justified confining any allowed change in demurrage rates to the East. It was also suggested that industries or others who detain cars for longer periods be located and penalized specifically, or that remedies be applied to certain types of traffic or certain areas.

An investigation has been made of the Bureau's records in an attempt to ascertain the validity of these suggestions. No means have been found to depart from the uniform application of the tariff. Demurrage charges are elective and while in some instances are incurred involuntarily, nothing could be gained by attempting to apply them in differing amounts, and under differing circumstances which are not created by the railways, to certain traffic or in certain areas. It could well be that in an industry producing the same traffic as another, one could have a good record and the other a poor one. It is the Board's statutory duty to remove unjust discrimination, not to create it.

The apparent better performance in western territory does not justify a difference in treatment for the same reason. It is noted that total cars reported in the West are not inclusive of grain cars to port terminal elevators upon which no demurrage is assessed. Mention has been made previously herein of the short period in May 1959 when demurrage was applicable to such traffic and the effect it had upon car release.

Our examination of the Bureau's records disclosed that by applying an index 100 to 1960 the 1964 and 1965 indices, by regions of cars released within free time, are as follows:

	<u>1964</u>	<u>1965</u>
Maritime region	104	104
Ontario-Quebec	104	103
Western Canada	102	103
All Canada	103	104

These data were derived from studies of individual railways' reports which indicate considerable variation one with another.

Taking into consideration all the evidence adduced and our subsequent investigations, I consider that the proposed demurrage rates are justified and must be allowed.

Concerning the proposed change in the tariff of the wording respecting loading of grain in western Canada: The objection is to the removal of reference to the Canada Grain Act and the proposed limitation of free time during the months of September, October and November to twenty-four hours. It is contended that the present tariff so limiting the free time is ineffective by reason of the

discontinuance of the use of car order books, and that such discontinuance establishes a free time of 48 hours as is applicable to all other traffic.

We attempted, at the hearing, to ascertain what free time was allowed in these months since the discontinuance of the use of the car order books. Failing to ascertain this information at that time, we requested the interested objecting parties to confer with the railways and submit an agreed statement of the facts. This statement has been received consisting of (1) extracts from the statutes since 1900; (2) extracts from the demurrage tariffs in effect since 1910; (3) Canadian Wheat Board "Instructions to the Trade"; (4) Circular No. 238 of the Board of Grain Commissioners to "Country Elevator Licensees" advising of refusal of applications for cars in the car order book respecting grain purchased for Wheat Board account; and (5) a summary of cars of grain loaded and demurrage assessed on the basis of 24 hours free time during September, October and November in the years 1960 to 1965 inclusive.

The last mentioned summary shows for the three months of each year the following:

<u>Year</u>	<u>Cars loaded</u>	<u>Cars Assessed</u>	<u>Demurrage Assessed</u>
1960	68,895	194	\$1,600.00
1961	80,700	182	1,272.00
1962	71,073	103	476.00
1963	108,405	128	680.00
1964	103,452	61	376.00
1965	115,890	64	432.00

It is evident from the foregoing that notwithstanding the disuse of the car order book for grain purchased for Wheat Board account, a twenty-four hour free time period has been applied in the three-month period in question.

The amount of demurrage incurred, as shown on the summary, is not substantial and does not indicate any hardship upon the grain shippers or trade. The Canada Grain Act and its predecessor statutes back to the year 1900 indicate Parliament's intention to curtail loading time to 24 hours in these months and the proposed tariff merely removes any doubt as to the application of the tariff. The objections which have been voiced to the tariff are mainly in the abstract as it is not shown that any prejudice of consequence arises out of the proposed revision of the tariff or that it alters the practice which has been followed. I would, therefore, allow the revised wording to go into the tariff.

Certain of the objecting parties, including those in the grain trade, assert that demurrage charges should not exceed per diem charges which apply to cars detained on lines other than those of the car owner. Per diem charges differ from demurrage in several ways. There is no free time allowance; they

are reciprocal; and are based upon age and value of equipment. In the latter respect a different charge may apply to the same type of car dependent upon its age and value. It would create a chaotic situation to attempt to assess demurrage on the same premises. Therefore I do not accept such suggested basis.

Early in 1965 a communication was received from the Honourable J. J. Greene seeking, on behalf of pulpwood shippers at Wilno, Ontario, additional free time to the 48 hours allowed for loading. Subsequently, a Resolution by the Municipal Corporation of the Townships of Hagarty & Richards was submitted in which it was requested that the free time be extended to ninety-six hours in that "Farmers and settlers find it impossible to load a carload of pulpwood in the allotted time."

The said applications were forwarded to the Canadian Car Demurrage Bureau whose submissions stated a survey of pulpwood loading in Eastern Canada during the months of May-July indicated that out of a total of 7,912 cars surveyed 99.41% were handled within the free time; that of this number of cars only 47 has been detained beyond the 48-hour free time period; and that in the interest of an adequate car supply as well as the need for uniform application no exception could be made for individual needs or circumstances.

In December 1965 a communication was received from Chown, Cooke & Chown, Renfrew, Ontario, on behalf of the aforesaid Townships, requesting that the hearing in this matter include consideration of extending the free time period particularly in the winter. It was stressed therein that there is "particular difficulty when a heavy snowfall delays loading or when icing conditions or other weather conditions make travel on the back roads and in the bush very difficult." In this context they asserted the previous conclusions of the Bureau, based on a survey made in summer months, were irrelevant, and that the extension of free time sought be made specifically applicable in the said Townships.

At the time this application was received the Board had suspended the proposed tariff and had set the matter down for hearing. During the hearing, and as no one appeared for these parties, the submissions were drawn to the attention of the Bureau and Canadian National Railways who undertook to again survey the situation within winter months and in particular within Renfrew County. The results of this survey were furnished to the Board on January 26th, 1966.

This survey, which was taken for the months of January, February, March and December 1965, shows that in Eastern Canada the total pulpwood loadings were 20,331 cars of which 738 cars were delayed beyond the free time; the percentage released within free time was 96%. Of the total loadings above stated, 375 cars were loaded on the Renfrew Subdivision. Of this number 99% of the cars were released within free time; and of the total only 5 cars were delayed beyond free time, and those were confined to the month of January.

The plea is for special treatment of the pulpwood loading in the area of the Renfrew Subdivision but, even if the Board could grant the application without regard to the possible discrimination it would create, there is no evidence of hardship which would justify doing so.

This is not the first occasion where the Board has been importuned to modify demurrage tariff provisions because of road conditions or inclement weather. A previous Judgment in point is:

"The condition of the highway over which haulage of the coal was to be made, and which is referred to as a reason for extension of the free time, is a disability for which the railway is in no way responsible. The free time for unloading as fixed by the Board in the Demurrage Rules is of general application, and covers what, after careful consideration, is regarded as a maximum reasonable term for unloading. In other cases where road disabilities or lack of facilities on behalf of the applicant has been advanced as a reason for additional free time, the Board has not felt itself justified in granting additional free time."

(J. H. Giroux v. Canadian Car Demurrage

Bureau, 9 J. O. R. & R. 369, cited with approval at 43 CRC 198-9)

A similar disposition must be made in the present instance.

Throughout this case we have been pressed to modify the impact of the proposed demurrage tariff, particularly the charges proposed in the first four days of detention. The main reason advanced therefor is that while shippers and consignees strive to release cars promptly conditions arise beyond their control which compel the retention of cars beyond the allowed free time. While I do not doubt this is so, it is seldom that, if ever, such conditions are attributable to the carrying railways. In "Alcan Distributors Ltd. v. Canadian Car Demurrage Bureau" 56 CRTC at p. 377, the Board said: "Cases are very numerous where demurrage is collected for delay to cars through unforeseen and in many instances unavoidable causes, but under conditions where, as here, the published demurrage rules do not provide exception." and at page 379 also said: "To ensure uniformity of practice and avoid any difference in treatment, discrimination or abuse, definite Demurrage Rules have been formulated and legalized by tariff publication. These Rules are of general application, and, as applied to some individual cases, may seem to work a hardship."

The railways have asserted that the only remedy available to them to expedite the release of cars is to increase the penalties for delay. The evidence is that delays to cars are increasing and particularly in a time when car shortages are being brought to the Board's attention for remedy.

It was suggested that the proposed tariff was predicated upon the tariff in force in the United States and Mr. Levy, Manager of the Bureau admitted he was somewhat influenced thereby because he is involved in the application

of that tariff. It must be noted, however, that the United States railroads have been directed by the Interstate Commerce Commission's Service Order No. 979 of March 16, 1966, to apply a regular demurrage charge of \$10 per day for the first four days of detention after free time and \$15 per day for each subsequent day, with Saturdays to be counted as demurrage days; average demurrage is similarly treated. The said Order is presently stated to expire December 1, 1966.

This Order is preceded by a statement to the effect that an acute car shortage exists; that the present demurrage provisions are not promoting the most efficient utilization of cars, and that "an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people."

It is incumbent upon those using railway equipment to exert every effort to expedite release of cars in their own interest. Failure to do so must entail higher penalties which are designed to promote this objective and for that reason I find that the proposed tariff is justified and that an Order should issue vacating the suspension, effective not less than ten days from the date of the Order.

(Signed) A. S. KIRK.

Ottawa, May 20, 1966.

I Concur:

(Signed) ROD KERR.

I Concur:

(Signed) W. R. IRWIN.

ORDER NO. 120841

FRIDAY, THE 20TH DAY OF
MAY, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.

W.R. IRWIN,
Commissioner.

A.S. KIRK,
Commissioner.

*IN THE MATTER OF proposed
amendments to Canadian Car
Demurrage rules and charges:*

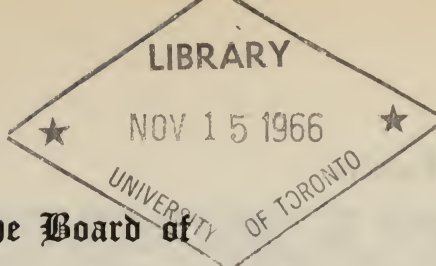
File No. 1700

UPON hearing the application at a sittings of the Board held in Ottawa, Ontario, on January 11th and 12th, 1966, in the presence of Counsel and representatives of Canadian Car Demurrage Bureau and Canadian Pacific Railway Company, Canadian Car Demurrage Bureau and Canadian National Railways, the Winnipeg Chamber of Commerce, United Grain Growers Limited, Canadian National Millers Association, Canadian Fruit Wholesalers' Association, Maritimes Transportation Commission, the Province of British Columbia, the Montreal Board of Trade, the Canadian Industrial Traffic League, Canadian Manufacturers' Association and the Aluminum Company of Canada—

IT IS HEREBY ORDERED AS FOLLOWS:

Order No. 118557, dated September 27, 1965, is hereby vacated and set aside, effective on not less than ten days from the date of this Order.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

*Canada*

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the Canadian Pacific Railway Company for authority to abandon that portion of the Kingston Subdivision between Sharbot Lake and Snow Road, a distance of 14.6 miles, all in the Province of Ontario.

*File No. 39309.54
May 19, 1966.*

BEFORE:

ROD. KERR, Q.C.,
J.M. WOODARD,
W.R. IRWIN,

*Chief Commissioner.
Commissioner.
Commissioner.*

APPEARANCES:

R.J. MADGE

for Canadian Pacific Railway Company

HEARD AT PERTH, ONTARIO, MAY 19, 1966.

ORAL JUDGMENT

THE CHIEF COMMISSIONER: We consider that we are in a position to determine the application at this time.

The application was dated September 28th, 1964 and came to the Board at that time and consequently it has been before the Board for a considerable time. During that time the Board followed its usual practice of investigating the application through its own resources. One of the Board's engineers made an inspection of the line and the facilities on the line and its condition and made a report to the Board. One of the Board's operating staff also inspected the line, interviewed certain shippers and municipal authorities and made a report to the Board on the line and the services given by the company and the general nature of the area served.

Notices were also sent to various parties and municipalities affected and the Board received from the Township of Oso a letter dated October 15, 1965 signed by the Clerk Gerald Harvey stating:

"A motion was passed by the Oso Township Council accepting the above mentioned application at the October 14th meeting."

The Board also received from the County of Frontenac a letter dated November 19, 1965, signed by J.E. Taylor, County Clerk, stating that:

“At the last session of Frontenac County Council the following resolution was passed”

— again quote —

“Properly proposed and seconded that this County Council have no objection to the Canadian Pacific Railway Company discontinuing their railway between Sharbot Lake and Snow Road.”

The Board also received from the Townships of Palmerston, North and South Canonto a letter dated January 15, 1965 signed by W.H. Sergeant, Clerk Treasurer, stating:

“The Council of the above Townships have no objection to the removal of the railroad from Snow Road to Sharbot Lake.”

While the Board had the application it was furnished by Canadian Pacific with various figures of revenues and expenses and figures pertaining to the application. Some were filed with the application, some were furnished to the Board subsequently.

Evidence has been given that the traffic has declined progressively in the last few years. As indicated in Exhibit No. 6 there was one carload into the line, a carload of lumber, in 1962. Since that time there has been no carload traffic in.

Carload traffic out in the years 1963, 1964 and 1965 as shown by that exhibit consisted of twenty-five carloads in 1963, one of which was lumber, the rest were pulpwood; in 1964 fourteen carloads all of pulpwood; in 1965 nine carloads all of pulpwood; and in 1966 to date no traffic in or out.

The gross system revenue to Canadian Pacific for traffic originating and terminating on the line was shown in Exhibit 7. For 1963 it was approximately \$3,800; for 1964 approximately \$2,200; and for 1965 approximately \$1,600. This decline in revenue is consistent with the decline in traffic. And it is of particular significance that the gross system revenue for any of the years 1963, 1964 and 1965 was such that it was less than the annual wages of one section man.

The evidence is that there are highways throughout the area, that the company has made efforts to obtain traffic, that the only available traffic is pulpwood and that it is being cut more distant now from the railway line than formerly and that traffic is declining.

No opposition to the application was offered at this hearing. There is nothing to show the Board that public convenience and necessity requires the continuation of the line. We have considered the revenues and expenses and the condition of the line. We have considered the evidence in respect of the future prospects

for the line and for traffic. We have considered the evidence that capital expenditures will have to be made if the line continues and that there will be greater maintenance necessary if the line is continued than has been provided in the past year when maintenance was kept low in the light of the possibility that the line might be abandoned.

On the whole therefore consistent with the principles that the Board has applied in previous abandonment applications which have been stated in numerous judgments of the Board where the Board takes into account all pertinent factors including the revenues and expenses of the line and of the system allocatable to the line, the existing train services, the volume and type of traffic, the length of the line, alternative transportation services, highways in the area, prospects for traffic on the line in future, prospects for future industry that might need the line or use it, the estimated annual savings to the railway company that would flow from abandonment and the burden to the company of continuing to operate the line, the nature of the area served, its future prospects and its need for railway services, the issue has been stated by the Board in numerous abandonment cases that it is whether the loss and inconvenience to the public consequent upon the abandonment of the line outweighs the burden that continued operation of the railway line would impose upon the railway company. It does not necessarily follow that because a line is not showing a profit it should be abandoned. In the present circumstances however having regard to all that is on the Board's file, all that we have ascertained through our investigations and all that has been represented to us either by way of correspondence or at this hearing, we are satisfied that the company has made a sufficiently good case to justify the Board granting the application and that the evidence is such that the Board would not be justified in refusing to grant the application.

We will therefore grant the application, but against the possibility that there may be some traffic available for the line this summer which has anticipated and expected to have the facilities on the line available, we will direct that abandonment shall not take place before September 1 of this year. It may take place at the discretion of the company at any time thereafter.

The company shall notify the principal shippers who have been using the line during the last three years of the date upon which operation will be abandoned. That notice should be sent to the shippers in time to allow them to ship any pulpwood or other traffic that they wish to ship prior to the abandonment of the line.

The company shall also give at least two weeks' notice to the Board of the date upon which abandonment will take place and forthwith after abandonment of operation the company shall also notify the Board that abandonment has taken place.

Is there anything further, Mr. Madge, that you wish in the way of directions? And may I also ask this; is there any reason you wish to put forward to the Board that would be relative to the date upon which abandonment may take place?

MR. MADGE: Mr. Chief Commissioner, I am just wondering whether there really are any principal shippers who would be involved at this time? I take it that what you are thinking of is if they are holding any pulpwood back in the cutting area which they may want to get out this summer?

THE CHIEF COMMISSIONER: What I had in mind is that your records will show the shippers who used the line in the last two or three years and who are potential users of the line in the next two or three months. They are not here today, they should get some indication of your intention to exercise the leave given by the Board, and obviously it would be of no use to them to be notified to that effect a week or ten days before you actually cease operation. They should get reasonable notice of your intention so that if they have shipments to go by your line they can make plans accordingly and not be left without rail facilities having expected them meanwhile.

MR. MADGE: I see. Thank you.

THE CHIEF COMMISSIONER: That concludes this hearing then.

— PERTH HEARING CONCLUDED —

ORDER NO. 120863

FRIDAY, THE 20TH DAY OF
MAY, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.

J.M. WOODARD,
Commissioner.

W.R. IRWIN,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Pacific Railway
Company for authority to abandon
that portion of its Kingston Subdivi-
sion between Sharbot Lake and Snow
Road, a distance of 14.6 miles, all
in the Province of Ontario:*

File No. 39309.54

UPON hearing the application at Perth, Ontario, on May 19, 1966, in the presence of Counsel for the Applicant, no one appearing in opposition to the application, and the Board having given oral judgment granting leave to abandon operation of the said portion of Canadian Pacific Railway Company's Kingston Subdivision between Sharbot Lake and Snow Road not earlier than September 1, 1966, and directing the Company to give prior notice of the date of abandonment to principal shippers on the said portion and to the Board and to notify the Board of abandonment when it takes place -

IT IS HEREBY ORDERED AS FOLLOWS:

1. Leave is given to Canadian Pacific Railway Company to abandon operation of that portion of its Kingston Subdivision between Sharbot Lake and Snow Road, in the Province of Ontario.

2. The Company shall give prior notice of the date on which abandonment of operation will take place to principal shippers on the said portion of line and to the Board and shall notify the Board of the abandonment when it takes place.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120624

TUESDAY, THE 26TH DAY OF
APRIL, A.D. 1966.

J.M. WOODARD,
Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways, hereinafter called the "Applicants", for authority to operate over the tracks of the Canadian Pacific Railway Company's Gibson Subdivision between Newburg and South Devon, mileage 0.00 to mileage 59.1, and that portion of the main sidings and set out tracks of the Shogomoc Subdivision between Newburg and Valley (near Woodstock), mileage 55.3 to mileage 49.2, all in the Province of New Brunswick:

File No. 39310.143

WHEREAS the abandonment of the Applicant's Centreville Subdivision from mileage 71.5 to mileage 129.7, all in the Province of New Brunswick, was authorized by Order No. 120128; and upon reading the submissions filed –

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicants are authorized to operate over the tracks of the Canadian Pacific Railway Company's Gibson Subdivision between Newburg and South Devon, mileage 0.00 to mileage 59.1, and that portion of the main sidings and set out tracks of the Shogomoc Subdivision between Newburg and Valley (near Woodstock), mileage 55.3 to mileage 49.2, all in the Province of New Brunswick.

(SGD) JOHN M. WOODARD, .
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 120673

FRIDAY, THE 29TH DAY OF
APRIL, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.

J.M. WOODARD,
Commissioner.

*IN THE MATTER OF the cylinder
retest and reinspection requirements
of Section 73.34(e) of the Board's
"Regulations for the Transportation
of Dangerous Commodities by Rail"
as prescribed and approved under
General Order No. 0-29 dated
February 1, 1965, and amendments
thereto:*

File No. DC 18.1

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

Notwithstanding the requirements of Section 73.34(e), the retest and reinspection period for a B.T.C. or I.C.C. 3A or 3AA cylinder which is offered for transportation by a railway subject to the Board's jurisdiction, may be extended from not more than five years to not more than ten years by complying with each of the conditions prescribed hereunder.

1. (a) The cylinder shall comply in all respects with either B.T.C. or I.C.C. specification 3A or 3AA. In addition, the cylinder shall qualify, as prescribed by Section 73.302(c) of the Board's regulations, for filling with a non-liquefied gas to a pressure which is 10 per cent in excess of its marked service pressure.

(b) A cylinder which has been in service for five years or more prior to the effective date of this Order shall have been reinspected and retested within that period in accordance with the requirements of Section 73.34(e) of the Board's regulations. A copy of the inspector's report as prescribed by the specification and the latest retest and reinspection report as prescribed by Section 73.34(e) shall be available on the cylinder owner's file for examination by any duly authorized officer of the Board.

2. The cylinder shall be used exclusively for one of the following gases: Oxygen, Nitrogen, Argon, Hydrogen, Helium, Neon, Krypton, Xenon, Nitrous Oxide, or Air or mixtures thereof. It shall not have previously been used in any other service and it shall bear a suitable label or marking to the effect that it is to be used exclusively for one of the aforementioned gases.

3. The gas shall not contain a contaminating gas or any other substance of a character or quantity that will have a detectable corrosive or other deleterious effect on the metal of the cylinder. Its dew point shall be below -52°F . measured at one atmosphere of pressure.

4. (a) Appropriate measures shall be taken immediately prior to each filling to ensure that the cylinder is free of internal corrosion and that it does not contain a foreign gas or other contaminating substance. If there is evidence that such a gas or substance is or has been present in the cylinder, it shall be thoroughly cleaned and dried and it shall receive an internal visual examination in accordance with the recommendations contained in the 1962 issue of Compressed Gas Association Pamphlet C-6 and amendments thereto.

(b) For the purpose of detecting internal corrosion, the cylinder shall receive a hammer test prior to each filling. This test shall be performed by striking the walls of the free standing cylinder with light blows from a half-pound, ball-peen machinist's hammer and comparing the resulting sound with the clear, ringing sound obtained by striking an uncorroded and undamaged cylinder of identical size and manufacture.

5. The cylinder shall be free of dents, gouges, bulges, fire damage, or other external defects which are evidence of abnormal usage and which are of sufficient severity to require repair or to reduce the life expectancy of the cylinder. For the purpose of complying with this requirement, the cylinder shall receive a visual external examination prior to each filling.

6. (a) Except as provided in subparagraph (b) of this paragraph, a cylinder which is found by either of the examinations prescribed by Paragraphs 4 or 5 to be corroded or damaged shall be removed from the ten year retest and reinspection programme authorized by this Order. Unless the corrosion or damage is sufficient to warrant scrapping the cylinder, it shall be relegated to the five year programme prescribed by Section 73.34(e) and the ten year retest mark prescribed by Paragraph 7 shall be removed or obliterated.

(b) Notwithstanding the requirements of subparagraph (a) of this paragraph, repairs authorized by the regulations to head rings and foot rings shall not necessitate removal of the cylinder from the ten year programme.

7. A cylinder which qualifies under the conditions prescribed herein for retest and reinspection every ten years shall bear the mark - 10 immediately following the test date. This mark shall be applied by means of a steel stamp.

8. A company or person intending to adopt the ten year retest and reinspection programme authorized by this Order shall advise the Director of Operation of the Board of such intent in writing and shall provide him with a list of the cylinders which will be included in the programme. Cylinders shall be identified

by specification, service pressure, serial number, manufacturer, capacity, service, original test date and latest retest date.

9. Except as specifically provided herein, cylinders shall be retested and reinspected in compliance with the requirements of Section 73.34(e).

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120682

MONDAY, THE 2ND DAY OF
MAY, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.

J.M. WOODARD,
Commissioner.

W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company", for authority to discontinue operation of mixed trains No. 570 and No. 573, operating daily ex Sunday between Fredericton and Chipman, in the Province of New Brunswick, a distance of 47.4 miles:

File No. 27563.427

UPON reading the submissions filed —

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicant Company is authorized to discontinue operation of mixed trains No. 570 and No. 573, between Fredericton and Chipman, in the Province of New Brunswick.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120704

**THURSDAY, THE 5TH DAY OF
MAY, A.D. 1966.**

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian Freight Association, under the provisions of Part III of General Order No. T-1, for approval of Supplement No. 32 to Canadian Freight, Classification No. 21, C.T.C. (F) No. 1681, on file with the Board under file No. 49084.32:

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 32 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, is approved.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120718

FRIDAY, THE 6TH DAY OF
MAY, A.D. 1966.

J.M. WOODARD,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of Northern Transportation Com-
pany Limited, hereinafter called the
"Applicant", for a licence under
section 10 of the Transport Act:*

File No. 42076.33

IT IS HEREBY ORDERED AS FOLLOWS:

Licence No. C.T.C. (WT) 452 is issued to the Applicant, licensing, for the year 1966, the following ships to transport goods by water between all ports and places in Canada in the area designated herein with respect to each ship:

From Waterways, Alberta, to Tuktoyaktuk, Northwest Territories, via Athabasca River, Lake Athabasca, Rocher River, Slave River, Great Slave Lake and Mackenzie River; subsidiary routes; Peace River – to the east end of Lake Athabasca – Great Slave Lake – Fort Simpson to Fort Simpson Airport via Liard River – Fort Norman to Fort Franklin via Bear River – Great Bear Lake to Port Radium.

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Radium Queen	159001	108.37
Radium King	159002	115.34
Radium Cruiser	171801	27.00
Radium Express	171802	87.59
Radium Prince	175123	42.07
Watson Lake	175563	63.36
Pelican Rapids	175564	163.70
Horn River	176217	107.65
Slave	176218	69.45
Radium Gilbert	177784	296.79
Radium Charles	179097	230.05
Radium Scout	179098	73.59
Radium Prospector	188350	198.80
Radium Miner	188351	199.75
Radium Trader	188352	199.77

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Radium Yellowknife	190324	235.45
Peace	192899	95.14
Niangua	192908	21.23
Radium Franklin	194887	118.81
Radium Dew	198913	288.97
Y-Tee Richard	179446	142.86
Y-Tee Marjory	188349	85.70
Y-Tee Husky	312790	262.23
Radium Barge #10	171816	71.15
Radium 75	179089	64.63
Radium 76	194888	77.14
Radium 77	194889	77.14
Radium 78	194890	77.14
Radium 80	173706	192.44
Radium 101	179088	107.49
Radium 102	190806	105.85
Radium 103	194891	105.85
Radium 104	189222	107.91
Radium 209	193282	364.89
Radium 210	193283	364.89
Radium 211	175554	295.83
Radium 212	175555	295.83
Radium 255	175557	215.66
Radium 258	175560	419.78
Radium 259	175561	419.78
Radium 260	188244	215.60
Radium 261	188245	215.60
Radium 303	179099	168.78
Radium 304	179100	168.78
Radium 350	195242	213.41
Radium 351	195243	213.41
Radium 352	195244	213.41
Radium 400	175153	227.32
Radium 402	175155	406.60
Radium 403	176215	227.32
Radium 404	176216	227.32
Radium 405	177785	220.83
Radium 406	177786	220.83
Radium 407	177787	220.83
Radium 408	177788	220.83

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Radium 409	177789	220.83
Radium 410	177790	220.83
Radium 411	178031	220.83
Radium 412	178032	220.83
Radium 413	178033	220.83
Radium 415	178035	220.83
Radium 416	179422	220.83
Radium 417	179423	220.83
Radium 418	179424	220.83
Radium 419	179425	220.83
Radium 420	179426	220.83
Radium 421	179427	220.83
Radium 422	179428	220.83
Radium 423	179429	220.83
Radium 424	190807	220.83
Radium 425	190808	220.83
Radium 426	190809	220.83
Radium 427	190810	220.83
Radium 428	190811	220.83
Radium 429	190812	220.83
Radium 430	190813	220.83
Radium 432	190815	220.83
Radium 433	190816	220.83
Radium 434	190817	220.83
Radium 435	190818	220.83
Radium 500	197409	272.47
Radium 501	197411	272.47
Radium 502	197415	272.47
Radium 600	198137	319.71
Radium 601	198138	319.75
Radium 602	198617	319.25
Radium 603	198618	319.09
Radium 604	198623	320.24
Radium 605	198624	320.24
Radium 606	198626	320.24
Radium 607	198640	320.24
Radium 608	198641	320.24
Radium 609	198655	320.24
Radium 610	188571	320.24
Radium 611	188572	320.24

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
Radium 612	188573	320.24
Radium 613	188575	320.24
Radium 614	188576	320.24
Radium 615	188586	320.24
Radium 616	188587	320.24
Radium 617	188588	320.24
Radium 618	188592	320.24
Radium 619	188598	320.24
Radium 620	188601	320.24
Radium 621	188602	320.24
Radium 622	188607	320.24
Radium 623	188608	320.24
Radium 624	188612	320.24
Radium 625	188615	320.24
Radium 626	188621	320.24
Radium 627	188622	320.24
Radium 628	188626	320.24
Radium 629	188629	320.24
Radium 630	188639	320.24
Radium 631	188643	320.24
Radium 632	188646	320.24
Radium 633	188651	320.24
Radium 634	188657	320.24
Radium 635	188658	320.24
Radium 701	175558	448.65
Radium 702	175559	448.65
Y.T.C. 101	177761	233.76
Y.T.C. 102	177762	233.76
Y.T.C. 103	323238	107.95
Y.T.C. 104	190800	233.06
Y.T.C. 105	179634	244.26
Y.T.C. 106	156749	775.99
Y.T.C. 107	188348	292.87
Y.T.C. 108	189297	460.98
Y.T.C. 109	312791	460.98
Y.T.C. 110	312792	460.98
A.S. No. 1	311166	797.92
A.S. No. 2	312077	798.13

<u>Vessel Name</u>	<u>Official Registry No.</u>	<u>Gross Tonnage</u>
A.S. No. 3	301195	672.21
A.S. No. 4	322355	53.43

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120738

MONDAY, THE 9TH DAY OF
MAY, A.D. 1966.

J.M. WOODARD,
Commissioner,
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways for authority to abandon the former Saskatoon Terminal Subdivision between mileage 2.14 and mileage 3.60, in the Province of Saskatchewan:

File No. 49218

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian National Railways are authorized to abandon the former Saskatoon Terminal Subdivision between mileage 2.14 and mileage 3.60, in the Province of Saskatchewan.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120931

MONDAY, THE 30TH DAY OF
MAY, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian National Rail-
ways for an Order authorizing the
temporary closing of certain stations
in the Province of Alberta:*

File No. 4205.2753

WHEREAS Canadian National Railways have indicated to the Board that there is a shortage of telegraphers and that qualified employees are not available to relieve agents at the stations named herein while they are on their annual vacation; and also that the agencies are included within the Calgary Master Agency Area, and the agents perform no service to the public; and the company has therefore requested an Order for the temporary closing of the stations for the said periods;

UPON such submissions the Board hereby authorizes Canadian National Railways to close the following stations during the periods set opposite their names:

<u>Station</u>	<u>Vacation Period</u>
Big Valley	August 1 – August 29, 1966
Morrin	July 1 – July 25, 1966
Youngstown	July 1 – July 25, 1966
Sylvan Lake	Sept. 1 – Sept. 26, 1966
Edberg	July 15 – August 8, 1966
Delia	July 4 – July 19, 1966
Rumsey	June 20 – July 12, 1966
Meeting Creek	August 15 – August 30, 1966
Donalda	August 1 – August 15, 1966
Acadia Valley	July 1 – July 18, 1966
Cereal	June 1 – June 15, 1966

AND IT IS FURTHER ORDERED that Canadian National Railways shall forthwith post a copy of this Order for the information of the public in each of of the said stations and send a copy to the local municipal authorities.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, MARCH 1966.

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents.....	204	12	209
Level Crossing Accidents.....	44	13	51
	<u>248</u>	<u>25</u>	<u>260</u>

	<u>Killed</u>	<u>Injured</u>
Passengers.....	—	54
Employees.....	—	152
Others.....	25	54
	<u>25</u>	<u>260</u>

Of the 44 accidents at Highway Crossings, 26 occurred where standard railway crossing signs are located, 18 where additional forms of protection are in use, 32 after Sunrise and 12 after Sunset.

OTTAWA, ONT.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 120536 April 20 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Boulevard du Havre, Valleyfield, P.Q., mileage 42.86 Valleyfield Subd.
- 120537 April 20 – Approving location of the proposed temporary Anhydrous Ammonia tank car unloading facilities of Canadian Industries Limited at Port Stanley, Ont., C.N.R.
- 120538 April 20 – Requiring the C.N.R. to install protection at crossing of their railway and Cannon St., Hamilton, Ont., mileage 0.53 Hagersville Subd.
- 120539 April 20 – Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120540 April 20 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120541 April 20 – Approving toll published in Supplement to tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120542 April 20 – Approving location of the flammable liquid storage facilities of the Abernethy Co-operative Association Limited at Abernethy, Sask., C.P.R.
- 120543 April 20 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120544 April 21 – Approving location of proposed temporary Anhydrous Ammonia transfer facilities of Canadian Industries Limited at Ayr, Ont., C.P.R.
- 120545 April 21 – Approving changes in the automatic protection at crossing of the C.N.R. and the Morden-Sprague Highway, Man., mileage 53.14 Letellier Subd.
- 120546 April 21 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 17.02 Murray Bay Subd., to mileage 101.53 Jonquiere Subd., P.Q.
- 120547 April 21 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 26.63 Halton Subd., to mileage 68.31 Beeton Subd., Ont.
- 120548 April 21 – Dismissing application of the C.P.R. for authority to remove the station agent and appoint a caretaker at Austin, Man.

- 120549 April 21 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 100.39 Fraser Subd., to mileage 24.60 Cowichan Subd., B.C.
- 120550 April 21 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 33.19 Cornwall Subd., to mileage 44.81 Sorel Subd., P.Q.
- 120551 April 21 – Approving changes in the automatic protection at crossing of the C.N.R. and the Municipal Highway in Letellier, Man., mileage 52.98 Letellier Subd.
- 120552 April 21 – Authorizing the N.S. Dept. of Highways to widen the Westhavers Elbow Road where it crosses the C.N.R. in Lunenburg County, mileage 71.22 Chester Subd.
- 120553 April 21 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 178.06 Havelock Subd., to mileage 194.70 Belleville Subd., Ont.
- 120554 April 21 – Authorizing the Quebec Dept. of Roads to realign and widen St. Thomas Road where it crosses the C.N.R. at mileage 41.59 Cornwall Subd.
- 120555 April 21 – Relieving the C.P.R. from erecting right of way fences on the north side of its Lenore Subd., Man., between mileage 16.73 and mileage 17.39.
- 120556 April 21 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 62.33 to mileage 63.53 Owen Sound Subd., Ont.
- 120557 April 21 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Lougheed Road, near Dewdney, B.C., mileage 81.48 Cascade Subd.
- 120558 April 21 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highways Nos. 23 and 28, east of St. Isidore, P.Q., mileage 208.38 Monk Subd.
- 120559 April 21 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 5.77 to mileage 0.70 Sudbury Section and mileage 0.46 Garson Section, all of the Sudbury Terminals Subd., Ont.
- 120560 April 21 – Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120561 April 21 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Broadway Avenue, in Montreal, P.Q., mileage 1.19 Longue Pointe Subd.

- *120562 April 21 – Determining balance of payment claims under Vote 84e of the Supplementary Estimates, to companies as defined in the Freight Rates Reduction Act. (See page 347, 56 B.T.C.)
- 120563 April 22 – Approving location of the flammable liquid storage facilities of Imperial Oil Limited at Waskada, Man., C.P.R.
- 120564 April 22 – Approving toll published in tariff filed by the C.P.R. under section 8 of the M.F.R.A.
- 120565 April 22 – Approving By-law of the City of Winnipeg, Man., prohibiting the sounding of engine whistles.
- 120566 April 25 – Authorizing the C.N.R. to remove the caretaker at Premont, P.Q., and to remove the station building provided an open shelter is erected.
- 120567 April 25 – Approving tolls published in tariffs filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 120568 April 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 114.20 to mileage 115.57 Jonquiere Subd., P.Q.
- 120569 April 25 – Amending Order No. 114671, which authorized the Quebec Dept. of Roads to widen Wharf Road where it crosses the C.N.R. at mileage 66.82 Murray Bay Subd.
- 120570 April 25 – Amending Order No. 120070, which authorized the Quebec Power Company to remove or relocate its existing facilities to permit construction of the subway at crossing of Colisee Ave. and the C.N.R., Quebec, P.Q.
- 120571 April 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 3.61 Alexandria Subd., to mileage 79.24 Massena Subd., P.Q.
- 120572 April 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 16.34 Telkwa Subd., to mileage 2.55 Lulu Island Branch, B.C.
- 120573 April 25 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 19.15 Lacombe Subd., to mileage 99.6 Leduc Subd., Alta.
- 120574 April 25 – Authorizing the C.N.R. to remove the caretaker at Ste. Ursule, P.Q., and to remove the station building provided a shelter is erected.
- 120575 April 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 29.17 to mileage 26.15 Roberval Subd., P.Q.

- 120576 April 25 – Approving Revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Telecommunications Richelieu Limitee.
- 120577 April 25 – Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and La Ligne Telephonique des Cultivateurs de la Province de Quebec.
- 120578 April 25 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120579 April 25 – Approving toll published in tariff filed by the C.P.R. under section 8 of the M.F.R.A.
- 120580 April 25 – Approving toll published in tariff filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 120581 April 25 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120582 April 25 – Amending Order No. 115355, which authorized installation of protection at crossing of the C.N.R. and University Ave., in Waterloo, Ont., mileage 2.69 Waterloo Subd.
- 120583 April 25 – Limiting the speed of trains to 25 m.p.h. at crossing of the C.N.R. and P.T.H. No. 3, west of Melfort, Sask., mileage 100.74 Tisdale Subd.
- 120584 April 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 15.9 Clearwater Subd., to mileage 10.77 Cowichan Subd., B.C.
- 120585 April 25 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 58.36 Wainwright Subd., to mileage 24.06 Dodsland Subd., Sask.
- 120586 April 25 – Authorizing the Consumers' Gas Company to install a steel gas pipe line under the C.N.R. on County Road No. 10, mileage 56.53 Beeton Subd., Ont.
- 120587 April 25 – Authorizing the C. & O.R. to relocate the reflectorized crossing signs from mileage 29.70 to mileage 0.50 No. 2 Subd., Ont.
- 120588 April 25 – Approving the widened crossing and improved approach grades at La Colline Blvd. where it crosses the C.N.R. at mileage 7.83 Raymond Subd., P.Q.
- 120589 April 25 – Authorizing the National Capital Commission to construct cribwalls under the overhead bridge carrying the Queensway across and over the C.P.R. in Ottawa, Ont., mileage 0.77 Prescott Subd.

- 120590 April 25 – Authorizing the C.P.R. to make signal changes on its White River and Heron Bay Subd., Ont.
- 120591 April 26 – Apportioning the cost of maintenance and operation of the crossing of the access road and the C.P.R. in Canmore, Alta., mileage 67.04 Laggan Subd.
- 120592 April 26 – Authorizing the Quebec Dept. of Roads to widen and improve St. Dominique North Road where it crosses the C.P.R. at mileage 26.33 Winchester Subd.
- 120593 April 26 – Authorizing the City of Guelph, Ont., to reconstruct Victoria Road where it crosses the C.N.R. at mileage 47.60 Guelph Subd.
- 120594 April 26 – Approving clearances on the C.N.R. track serving Barry and Staines Linoleum (Canada) Limited, Farnham, P.Q.
- 120595 April 26 – Approving side clearances on the C.P.R. siding serving Pacific Logging Company Limited at Slocan City, B.C.
- 120596 April 26 – Approving revised plan showing the reconstruction and widening of the crossing at intersection of Victoria Ave. and Park St. and the C.N.R., in Regina, Sask., mileage 90.94 Glenavon Subd.
- 120597 April 26 – Authorizing the Napierville Junction Railway to operate on the trackage serving Ciments Lafarge Quebec Limitee, across Range Road de la Riviere Tortue Cote Sud, Munic. of St. Mathieu, P.Q.
- 120598 April 26 – Authorizing the City of Lachine, P.Q. to construct Louis A. Amos St. across the C.N.R. at mileage 2.38 Cote de Liesse Industrial Spur, which commences at mileage 144.33 Joliette Subd.
- 120599 April 26 – Authorizing The Consumers' Gas Company to install a steel gas pipe line under the C.N.R. at mileage 58.11 Bala Subd., between Townships of Georgina and Brock, Ont.
- 120600 April 26 – Approving plan showing the deviation of the C.N.R. Sorel Subd., between mileages 96.80 and 97.38 at Aston Junction, P.Q.
- 120601 April 26 – Authorizing the N.S. Dept. of Highways to construct an overhead bridge to carry the Trans Canada Highway across and over the C.N.R. near Tracadie, N.S., mileage 105.5 Hopewell Subd.
- 120602 April 26 – Requiring the Village of Canmore, Alta., to pay the cost of maintenance of the crossing of the C.P.R. and Railway Avenue, mileage 0.18 Canmore Mine Spur.

- 120603 April 26 – Requiring the Village of Canmore, Alta., to pay the cost of maintenance of the crossing of the C.P.R. and 7th Avenue, mileage 0.29 Canmore Mine Spur.
- 120604 April 26 – Authorizing the N.S. Dept. of Highways to construct an overhead bridge to carry the Trans Canada Highway across and over the C.N.R. at Linwood, N.S., mileage 111.58 Hopewell Subd.
- 120605 April 26 – Authorizing the Corp. of the Village of Qualicum Beach, B.C., to construct a pedestrian crossing across the E. & N.R. along the east side of Memorial Ave., mileage 101.6 Victoria Subd.
- 120606 April 26 – Requiring the N.Y.C.R. to install automatic protection at crossing of its railway and Notre Dame St., mileage 50.64 Adirondack Junction and Malone Subd.
- 120607 April 26 – Authorizing the Quebec Dept. of Roads to widen and improve Montee Coteau Landing where it crosses the C.N.R. in the Village of Coteau Station, mileage 46.79 Valleyfield Subd.
- 120608 April 26 – Authorizing the N.A.R. to remove the station agent at Pibroch, Alta., provided a resident caretaker is appointed and available for duty.
- 120609 April 26 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 61.32 Joliette Subd., to mileage 0.26 St. Patrick St. Spur, which junctions with the Montreal Subd. at mileage 1.80, P.Q.
- 120610 April 26 – Amending Order No. 119563, which authorized the Quebec Dept. of Roads to widen Smallman Side Road where it crosses the C.N.R. in Munic. of Dundee, P.Q., mileage 26.45 Massena Subd.
- 120611 April 26 – Requiring the C.N.R. to install protection at crossing of their railway and Highway No. 58, Township of Franquet, P.Q., mileage 8.36 Mattagami Subd.
- 120612 April 26 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 166.55 to mileage 194.70 Belleville Subd., Ont.
- 120613 April 26 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from mileage 53.6 Brooks Subd., to mileage 0.56 North Industrial Spur, which junctions with Maple Creek Subd., at mileage 146.8, Alta.
- 120614 April 26 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 69.80 to mileage 10.73 Centreville Subd., N.B.

- 120615 April 26 – Authorizing the C.N.R. to improve the farm crossing over their railway serving the property of Alan Jackson, near Leitches Creek, N.S., mileage 101.61 Sydney Subd.
- 120616 April 26 – Approving changes in the automatic protection at crossing of the C.N.R. and McAra St., Regina, Sask., mileage 91.38 Glenavon Subd.
- 120617 April 26 – Requiring all train movements over the crossing of the C.N.R. and Highway No. 121, at Kinmount, Ont., mileage 33.86 Haliburton Subd., to be flagged by a member of the train crew.
- 120618 April 26 – Authorizing the C.P.R. to make changes to the signals on the Galt Subd., between mileages 76.0 and 97.0, Ont.
- 120619 April 26 – Approving clearances on the C.N.R. siding serving Corning Glass Works of Canada Limited at Leaside, Ont.
- *120620 April 26 – Amending General Order No. E-10, General Regulations Regarding Pipe Crossings under Railways. (See page 339, 56 B.T.C.)
- 120621 April 26 – Authorizing the C.N.R. to operate over the bridge at mileage 18.5 Fraser Subd., B.C.
- 120622 April 26 – Authorizing the City of Moose Jaw, Sask., to reconstruct the subway carrying Second Ave. East across and under the C.P.R. at mileage 135.0 Indian Head Subd.
- 120623 April 26 – Authorizing the C.P.R. to remove the station agent at Griswold, Man., provided a resident caretaker is appointed and available for duty.
- *120624 April 26 – Authorizing the C.N.R. to operate over the tracks of the C.P.R. Gibson Subd. between Newburg and South Devon, mileage 0.00 to 59.1, and the main portion of the main sidings and tracks of the Shogomoc Subd. between Newburg and Valley (near Woodstock), mileage 55.3 to 49.2, N.B. (See page 976, 56 B.T.C.)
- 120625 April 26 – Approving location of proposed temporary Anhydrous Ammonia transfer facilities of Canadian Industries Limited near mileage 33.2 Port Burwell Subd., of the C.P.R.
- 120626 April 26 – Approving location of proposed flammable liquid storage facilities of Shell Canada Limited at Goodeve, Sask., C.N.R.
- 120627 April 26 – Amending Order No. 115912, re apportionment of cost of installing protection at crossing of the C.N.R. and Highway 40A, mileage 1.50 Froomfield Spur which joins Strathroy Subd. at mileage 58.9, in Sarnia, Ont.

- 120628 April 26 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120629 April 26 – Approving tolls published in tariff filed by the Canadian Freight Association under section 3 of the M.F.R.A.
- 120630 April 26 – Approving toll published in tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120631 April 26 – Amending Order No. 114166, re apportionment of cost of installing improved protection at crossing of the C.N.R. and Pillette Road, Windsor, Ont., mileage 104.01 Chatham Subd.
- *120632 April 26 – Postponing effective date of changes in demurrage regulations applicable on export traffic. (See page 350, 56 B.T.C.)
- 120633 April 26 – Authorizing the C.N.R. to remove the caretaker and the station building at Ste. Ursule Falls, P.Q.
- 120634 April 26 – Amending Order No. 117476, re apportionment of cost of installing protection at crossing of the C.N.R. and Highway 524H, near Rosevear, Alta., mileage 116.73 Edson Subd.
- 120635 April 26 – Requiring the C.N.R. to install protection at crossing of their railway and Queen St. in Emo, Ont., mileage 108.91 Fort Frances Subd.
- 120636 April 26 – Amending Order No. 113627, re apportionment of cost of installing protection at crossing of the C.N.R. and Petit St. Jean Road, in St. Etienne, P.Q., mileage 3.23 Danville Subd.
- 120637 April 26 – Authorizing the Quebec Dept. of Roads to widen Cite des Jeunes Blvd. where it crosses the C.P.R. in St. Clet, mileage 30.02 Winchester Subd.
- 120638 April 26 – Requiring the C. & O.R. to install protection at crossing of its railway and County Road No. 38, in Wilkie, Ont., mileage 78.3 No. 1 Subd.
- 120639 April 26 – Requiring the C. & O.R. to install protection at crossing of its railway and County Road No. 6, County of Kent, Ont., mileage 64.3 No. 1 Subd.
- 120640 April 26 – Requiring the C.N.R. to install automatic protection at crossing of their railway and Highway No. 599, in Savant Lake, Ont., mileage 78.26 Allanwater Subd.
- 120641 April 26 – Amending Order No. 115565, re apportionment of cost of widening Modeland Road where it crosses the C.N.R. in Township of Sarnia, Ont., mileage 65.96 Forest Subd.

- 120642 April 26 – Requiring the C.P.R. to install automatic protection at crossing of its railway and 30th St. North in Lethbridge, Alta., mileage 106.60 Taber Subd.
- 120643 April 26 – Amending Order No. 117171, re apportionment of cost of installing protection at crossing of the C.N.R. and Highway 524F. at Niton, Alta., mileage 100.17 Edson Subd.
- 120644 April 26 – Amending Order No. 109207, re apportionment of cost of installing protection at crossing of the C.N.R. and High Road, in Kelowna, B.C., mileage 118.0 Okanagan Subd.
- 120645 April 26 – Requiring the C. & O.R. to install automatic protection at crossing of its railway and Kent County Road No. 30, near Chatham, Ont., mileage 21.5 No. 2 Subd.
- 120646 April 28 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Kimberley Ave., Winnipeg, Man., mileage 1.6 Lac du Bonnet Subd.
- 120647 April 28 – Authorizing the C.N.R. to operate over the timber trestle and wharf extension to their ferry slip at Cowichan Bay, Vancouver Island, B.C.
- 120648 April 28 – Authorizing the C.N.R. to operate on the subway structure across and over York Road, Wentworth County, Ont., mileage 2.1 Dundas Subd.
- 120649 April 28 – Authorizing the C.N.R. to operate on the bridge at mileage 89.5 Yale Subd., B.C.
- 120650 April 28 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from mileage 11.87 Fonthill Subd., to mileages 1.51 and 2.24 of Point Edward Spur which junctions with St. Clair Tunnel Subd. at mileage 0.48, Ont.
- 120651 April 28 – Amending Order No. 119133, which authorized the National Capital Commission to close the temporary service road across the C.N.R. Freight Shed Lead track in vicinity of new Ottawa Station, opposite mileage 75.7 Alexandria Subd., Ont.
- 120652 April 28 – Authorizing the National Capital Commission to construct a crossing to carry temporarily diverted Gladstone Ave. over the C.P.R. in Ottawa, Ont., mileage 0.64 Prescott Subd.
- 120653 April 28 – Approving tolls published in tariffs filed by the Canadian Freight Association under section 3 of the M.F.R.A.
- 120654 April 28 – Approving tolls published in tariffs filed by the D.A.R. under sections 3 and 8 of the M.F.R.A.

- 120655 April 28 – Approving changes in the automatic protection at crossing of the C.P.R. and South St., Cowansville, P.Q., mileage 7.02 Newport Subd.
- 120656 April 28 – Approving changes in the automatic protection at crossing of the C.N.R. and Merivale Road, in Ottawa, Ont., mileage 1.62 Smiths Falls Subd.
- 120657 April 28 – Authorizing the C.P.R. to remove the station agent and close the station building at Iberville, P.Q.
- 120658 April 29 – Authorizing the C.N.R. to operate over the bridge at mileage 23.6 Rapid City Subd., Man.
- 120659 April 29 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at Port Robinson, Ont., mileage 11.22 Welland Subd.
- 120660 April 29 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway near Crooked River, Sask., mileage 59.63 Chelan Subd.
- 120661 April 29 – Amending Order No. 119830, re signboards and the marking of same with reflective material at certain highway crossings of the C.P.R.
- 120662 April 29 – Requiring the C.P.R. to install automatic protection at crossing of its railway and County Road No. 2, west of Jeanette, Ont., mileage 77.59 Windsor Subd.
- 120663 April 29 – Requiring the C.P.R. to install protection at crossing of its railway and Fourth Range Road East in St. Andre d'Acton, P.Q., mileage 42.83 Drummondville Subd.
- 120664 April 29 – Relieving the N.A.R. from erecting right of way fences on the east side of its Lac la Biche Subd., Alta., between mileage 97.0 and mileage 100.0.
- 120665 April 29 – Authorizing the removal of the speed limitation at crossing of Highway No. 8 and the C.N.R., east of station at McGivney, N.B., mileage 84.96 Napadogan Subd.
- 120666 April 29 – Authorizing the C.N.R. to carry traffic over their lead track in Lachine, P.Q.
- 120667 April 29 – Requiring the C. & O.R. to install automatic protection at crossing of its railway and County Road No. 5, at Stevenson, Ont., mileage 55.30 No. 1 Subd.
- 120668 April 29 – Assessing the cost of maintenance and operation of the automatic protection and the cost of maintenance of the crossing of the C.N.R. and Henri-Bourassa Blvd. (Leduc Blvd.) in

Montreal North, P.Q., mileage 134.86 Joliette Subd. on the City and the C.N.R.

- 120669 April 29 – Approving changes in the automatic protection at crossing of the C.N.R. and Lebeau Ave., in St. Jérôme, P.Q., mileage 30.80 Montfort Subd.
- 120670 April 29 – Authorizing the Town of Clinton, Ont., to widen Highway No. 4 where it crosses the C.N.R. at mileage 32.91 Goderich Subd.
- 120671 April 29 – Authorizing the County of Wheatland No. 16 Alta. to reconstruct county road where it crosses the C.P.R. at mileage 141.2 Brooks Subd.
- 120672 April 29 – Authorizing the National Capital Commission to construct a connecting track from mileage 86.08 of the C.P.R. Montreal and Ottawa Subd., to mileage 76.93 of the C.N.R. Alexandria subd. and to construct a crossover between the C.N.R. westbound and eastbound main lines.
- *120673 April 29 – Extending the period for cylinder retest and reinspection requirements of Section 73.34(e) of the "Board's Regulations for the Transportation of Dangerous Commodities by Rail" as prescribed and approved under General Order No. 0-29. (See page 977, 56 B.T.C.)
- 120674 April 29 – Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120675 April 29 – Requiring the A.C.R. to install automatic protection at crossing of its railway and 5th Line Road, in Sault Ste. Marie, Ont., mileage 8.05 Soo Subd.
- 120676 May 2 – Requiring the C. & O.R. to install protection at crossing of its railway and County Road No. 35, near Eberts, Ont., mileage 24.2 No. 2 Subd.
- 120677 May 2 – Requiring the C.P.R. to install automatic protection at crossing of its railway and County Road No. 24, west of Bothwell, Ont., mileage 44.07 Windsor Subd.
- 120678 May 2 – Authorizing the C.P.R. to permanently convert the swing span of its bridge over the Red River in Winnipeg, Man., mileage 124.6 Keewatin Subd. into a fixed span.
- 120679 May 2 – Amending Order No. 119935 which authorized the removal of the caretaker and the station shelter at Summit, P.Q., C.N.R.
- 120680 May 2 – Approving the location of proposed additional flammable liquid bulk storage and handling facilities of Imperial Oil Ltd. at Hinton, Alta., near mileage 184.7 Edson Subd., C.N.R.

- 120681 May 2 – Authorizing the C.N.R. to install protection at the crossing of their railway and the highway at mileage 3.70 Point Edward Spur, Ontario.
- *120682 May 2 – Authorizing the C.P.R. to discontinue operation of mixed trains Nos. 570 and 573 operating daily ex Sunday between Fredericton and Chipman, N.B., a distance of 47.4 miles. (See page 980, 55 B.T.C.)
- 120683 May 2 – Authorizing the C.N.R. and C.P.R. to operate over certain trackage in City of Ottawa, Ont., and approving less than standard overhead clearances on connecting track between mileage 86.08 M. & O. Subd. C.P.R. and mileage 76.93 Alexandria Subd. C.N.R.
- 120684 May 2 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. at Newton, P.E.I., mileage 2.30 Borden Subd.
- 120685 May 2 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. in Picton, Ont., mileage 1.40 Picton Subd.
- 120686 May 3 – Authorizing the C.N.R. to operate on the private siding serving Langley Fruit Packers Ltd. leading from Montague Subd. mileage 5.72 and crossing the public highway at siding mileage 0.15, Town of Montague, P.E.I.
- 120687 May 2 – Authorizing the Saskatchewan Department of Highways and Transportation to construct an overhead bridge to carry Highway No. 1 across and over the C.N.R. track at mileage 38.14 Central Butte Subd.
- 120688 May 3 – Approving tolls published in tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 120689 May 3 – Authorizing the Ontario Department of Highways to construct a subway to carry Highway No. 58 across and under the right of way track of the Niagara, St. Catharines and Toronto Rly. in the Town of Thorold, Ontario, mileage 5.60 Fonthill Subd.
- 120690 May 3 – Approving tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120691 May 4 – Authorizing the C.N.R. to construct the main track of their Kitchener Industrial Spur at grade across Bleams Road, Kitchener, Ontario, mileage 0.48 of the spur.
- 120692 May 4 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Avenue "C" North in Saskatoon, Sask., mileage 4.48 Worman Subd.

- 120693 May 4 – Authorizing the C.N.R. to make changes to automatic protection at crossing of their railway and Innisfil Street, in Barrie, Ontario, mileage 0.32 Meaford Subd.
- 120694 May 4 – Authorizing the Ontario Department of Highways to install automatic protection at crossing of Highway No. 596 and C.N.R. in Pelican Twp., Ontario, mileage 140.37 Redditt Subd.
- 120695 May 4 – Authorizing the Ontario Department of Highways to widen Highway No. 89 where it crosses the C.P.R. in the Village of Shelburne, Ont., mileage 15.9 Owen Sound Subd.
- 120696 May 5 – Authorizing the C.N.R. to operate on private siding extension serving Texpack Ltd. which crosses Craig Street, City of Brantford, Ont., mileage 0.31 of siding, off mileage 21.34 Dundas Subd.
- 120697 May 5 – Authorizing the C.N.R. to operate across rue de la Métropole at mileage 0.17 of City of Jacques Cartier Industrial Park Spur which leads from mileage 5.71 Sorel Subd., P.Q.
- 120698 May 5 – Authorizing the C.N.R. to open the industrial spur serving the City of Brantford Industrial Park, commencing at mileage 21.34 Dundas Subd., Ont.
- 120699 May 5 – Approving tolls published by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 120700 May 5 – Authorizing the Northern Alberta Railways Company to remove the station agent at Busby, Alta.
- 120701 May 5 – Amending Order No. 111012 which authorized improvements to the automatic protections at C.N.R. crossings of St. Dominique Street and St. Jean Baptiste Street, City of Jonquière, P.Q., mileages 105.36 and 105.07 respectively Jonquière Subd.
- 120702 May 5 – Authorizing the Ontario Department of Highways to reconstruct and improve the overhead bridge carrying Hunt Street across and over the C.P.R. in Hamilton, Ont., mileage 38.51 Hamilton Subd.
- 120703 May 5 – Authorizing improvements to the vision at the crossing of the C.N.R. and Township Road in the Township of Oro, Simcoe County, Ont., mileage 72.36 Newmarket Subd.
- *120704 May 5 – Approving supplement No. 32 to Canadian Freight Classification No. 21. (See page 981, 56 B.T.C.)
- 120705 May 5 – Authorizing the revisions to tariffs filed by the British Columbia Telephone Company.

- 120706 May 5 – Approving tolls published in tariffs filed by the D.A.R. under sections 3 and 8 of the M.F.R.A.
- 120707 May 5 – Approving tolls published in tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 120708 May 5 – Approving tolls published in tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 120709 May 5 – Approving tolls published in tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 120710 May 5 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Valvue Street, Town of Neufchatel, P.Q., mileage 7.99 St. Raymond Subd.
- 120711 May 6 – Approving location of proposed flammable liquid bulk storage and handling facilities of Imperial Oil Ltd. at Lynn Lake, Man., near mileage 184.8 Sherridan Subd., C.N.R.
- 120712 May 6 – Approving location of proposed additional office building and transfer facilities of Imperial Oil Ltd. at Arborfield, Sask., near mileage 19.52 Arborfield Subd., C.N.R.
- 120713 May 6 – Approving location of proposed flammable liquid bulk storage facilities of Shell Canada Ltd. at Ethelbert, Man., mileage 29.9 Cowan Subd., C.N.R.
- 120714 May 6 – Approving location of proposed flammable liquid bulk storage and handling facilities of British American Oil Company Ltd. at Sorel, P.Q., mileage 44.46 Sorel Subd., C.N.R.
- 120715 May 6 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Mill Road, mileage 122.77 Springhill Subd., N.B.
- 120716 May 6 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and County Road in the vicinity of Brechin East, Ont., mileage 72.40 Bala Subd.
- 120717 May 6 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Highway, 5.2 miles north of Angus, Ont., mileage 15.60 Meaford Subd.
- *120718 May 6 – Granting licence for the year 1966 to Northern Transportation Company Ltd. under section 10 of the Transport Act. (See page 982, 56 B.T.C.)
- 120719 May 6 – Authorizing the R.M. of Medstead No. 497 to close certain crossings of the highway and the C.P.R. in Saskatchewan at mileages 17.81, 19.50 and 20.75 Medstead Subd.

- 120720 May 6 – Authorizing the Ontario Department of Highways to reconstruct Highway No. 539 where it crosses at grade the right of way and track of the C.P.R. in Lot 2, Con. 6, Twp. of Dunnet, District of Sudbury, Ont., mileage 43.09 Cartier Subd.
- 120721 May 6 – Approving the installation of reflectorized signboards at certain C.N.R. crossings as specified in Appendix "A" to Order 112158.
- 120722 May 6 – Authorizing the removal of the speed limitation at crossing of Romeo Street and C.N.R., Stratford, Ont., mileage 87.95 Guelph Subd.
- 120723 May 6 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120724 May 9 – Authorizing the C.N.R. to relocate the protection at crossing of Fraser Road in Timberlea, N.S., mileage 8.25 Chester Subd.
- 120725 May 9 – Amending Order No. 118928 which authorized the City of Montreal to construct a pedestrian bridge across and over the C.P.R. between St. Roch and Jarry Parks, Montreal, P.Q., mileage 6.31 Park Avenue Subd.
- 120726 May 9 – Approving Supplement No. 1 to Traffic Agreement filed by The Bell Telephone Company of Canada.
- 120727 May 9 – Approving revised Appendix "A" to Traffic Agreement filed by The Bell Telephone Company of Canada.
- 120728 May 9 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120729 May 9 – Authorizing the Quebec Department of Roads to install protection at crossing of the C.N.R. and 3rd Range Road, Mun. of St. Alexandre Parish, P.Q., mileage 9.05 Montmagny Subd.
- 120730 May 9 – Authorizing the C.N.R. to operate over private siding crossing Morton Ave., Brantford, Ont. which commences at mileage 0.14 of the Industrial Spur off mileage 21.34 Dundas Subd.
- 120731 May 9 – Authorizing the N.S. Department of Highways to construct an overhead bridge carrying the Trans-Canada Highway over the C.N.R., Town of North Sydney, N.S., mileage 98.0 Sydney Subd.
- 120732 May 9 – Authorizing Perini Ltd. to construct and maintain, at its own expense, a temporary overhead bridge to carry private roadway over the C.N.R., mileage 10.7 Weston Subd., Ont.

- 120733 May 9 – Authorizing the Mun. Corp. of the Parish of Ste. Anne du Sault, P.Q. to install protection at C.N.R. crossing and 2nd Range Road, mileage 69.29 Drummondville Subd.
- 120734 May 9 – Authorizing the Quebec Department of Roads to reconstruct Janin Road where it crosses the C.N.R. in the Municipality of the Parish of St. Pierre de la Malbaie No. 2, County of Gaspé South, P.Q., mileage 86.8 Chandler Subd.
- 120735 May 9 – Authorizing the C.N.R. to install special reflectorized signs at crossing of Riverside Drive and private siding serving Hiram Walker and Sons Ltd. in Windsor, Ont., mileage 105.51 Chatham Subd.
- 120736 May 9 – Authorizing the Twp. of Oro to improve sight lines at crossing of Line 9 Road and C.N.R. between Cons. 9 and 10, Twp. of Oro, Ont., mileage 76.05 Newmarket Subd.
- 120737 May 9 – Authorizing the C.N.R. to operate on subway structure carrying their tracks over Highway 21, Village of Richelieu, P.Q., mileage 43.21 Granby Subd.
- *120738 May 9 – Authorizing the C.N.R. to abandon the former Saskatoon Terminal Subd. between mileages 2.14 and 3.60, Sask. (See page 987, 56 B.T.C.)
- 120739 May 9 – Authorizing the Quebec Department of Roads to improve Farm Point Road where it crosses track of the C.P.R., Mun. of the Twp. of Hull, West Part, P.Q., mileage 16.08 Maniwaki Subd.
- 120740 May 9 – Authorizing the Quebec Department of Roads to construct a subway carrying Highway No. 6 across and under the C.N.R. in the Mun. of Escuminac, County of Bonaventure, P.Q., mileage 27.27 Cascapedia Subd.
- 120741 May 9 – Assessing the cost of maintenance and operation of protection at crossing of the C.N.R. and Township Road, East of Delhi, Ont. on the County of Norfolk and the Railways, mileage 81.30 Cayuga Subd.
- 120742 May 9 – Approving By-law No. T-157 prohibiting sounding of whistles on main line of the C.P.R., Town of Rosemere, P.Q., Park Avenue Subd.
- 120743 May 10 – Authorizing the removal of the speed limitation at crossing of Jalbert Street and the C.N.R., Lévis, P.Q., mileage 3.09 St. Romuald Subd.
- 120744 May 10 – Authorizing the operation of C.N.R. over ferry slip in North Arm of the Fraser River, B.C., on a siding which commences at mileage 8.13 Lulu Island Subd.

- 120745 May 10 – Approving supplements Nos. 1 and 2 to Service Station Contract filed by The Bell Telephone Company of Canada.
- 120746 May 10 – Authorizing the Trans-Canada Pipe Lines Ltd. to construct gas pipe line across and under C.P.R., Mun. of North Norfolk, Man., mileage 80.66 Carberry Subd. and in SE¼ of Sec. 34, Twp. 13, Rge. 25, West Principal Meridian, R.M. of Miniota, Man., mileage 61.03 Miniota Subd. (formerly mileage 33.43).
- 120747 May 10 – Authorizing the C.N.R. to reconstruct bridge over Bulkley River, B.C., mileage 58.3 Telkwa Subd.
- 120748 May 10 – Authorizing the C.N.R. to reconstruct bridge over La Salle River, Man., mileage 6.3 Letellier Subd.
- 120749 May 10 – Authorizing the C.N.R. to operate on extension of subway serving Edmonton Postal Terminal, Alta., crossing over 97th Street, mileage 0.15 Edmonton Terminal Subd.
- 120750 May 10 – Authorizing the Sask. Dept. of Highways and Transportation to widen Highway 13 where it crosses C.P.R., mileage 22.07 Altawan Subd.
- 120751 May 10 – Imposing a speed restriction of 25 mph for the running of trains of the C. & O. Rly. Co. along Stewart and Queen Sts., Town of Kingsville, Ont., mileage 30.10 Canada No. 1 Subd.
- 120752 May 10 – Authorizing the C.P.R. to operate over extension of private industrial lead serving St. James Industrial area and over unopened Caithness Road, City of St. James, Man.
- 120753 May 10 – Authorizing the Town of Belcarres, Sask. to reconstruct Highway No. 310 where it crosses the C.P.R., mileage 24.7 Bulyea Subd. and to widen said crossing and improve the approaches.
- 120754 May 10 – Authorizing the Quebec Dept. of Roads to install protection at the crossing of the Q.C.R. and 10th Street, Town of Beauceville, P.Q., mileage 14.68 Chaudière Subd.
- 120755 May 10 – Authorizing the County of Prince Edward, Ont. to install protection at crossing of the C.N.R. and Prince Edward County Road No. 1, Twp. of Hallowell, mileage 1.47 Picton Subd.
- 120756 May 10 – Authorizing the Quebec Dept. of Roads to improve Airport Road crossing the C.N.R., Mun. of the Parish of Senneterre, County of Abitibi East, P.Q., mileage 136.92 Oskelaneo Subd. and the C.N.R. to install protection at the crossing.

- 120757 May 10 - Authorizing the Quebec Dept. of Roads to widen and improve gradients of Montée Harwood where it crosses the C.P.R., Mun. of Hudson Heights, County of Vaudreuil, P.Q., mileage 10.60 M. & O. Subd.
- 120758 May 10 - Amending Order No. 115340 which authorized the Quebec Dept. of Roads to widen Third Range Road at C.P.R. crossing in St. Athanase d'Iberville, mileage 17.76 Adirondack Subd.
- 120759 May 11 - Authorizing the Twp. of Zone, Ont. to install protection at crossing of the C.P.R. and Township Road, County of Kent, mileage 49.09 Windsor Subd.
- 120760 May 11 - Assessing the cost of maintenance of C.N.R. crossing at Eighth Street, City of Grand'Mère, P.Q., on the City, mileage 44.28 Joliette Subd.
- 120761 May 11 - Approving the crossing of the Great Slave Lake Rly. and MacKenzie Drive, Hay River, N.W.T., mileage 376.87 as constructed, and assessing the cost of maintenance on the C.N.R.
- 120762 May 11 - Authorizing the Corp. of the Twp. of Richmond, B.C. to construct a road across the C.P.R., mileage 1.19 Vancouver & Lulu Island Subd. and the Railway Company to install automatic protection at the crossing.
- 120763 May 11 - Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 120764 May 11 - Amending Order No. 111797 which authorized the City of London, Ont. to construct an overhead bridge carrying Quebec Street over the C.P.R., mileage 113.08 Galt Subd.
- 120765 May 11 - Amending Order No. 118884 which authorized the Alta. Dept. of Highways to reconstruct Local Road 369F where it crosses CNR tracks near Leslieville, mileage 75.73 Brazeau Subd.
- 120766 May 12 - Authorizing the Quebec Dept. of Roads to widen and improve approach grades of Chemin Haut de la Rivière Montréal crossing C.N.R. in the Municipality of St. Joseph de Chambly, mileage 46.23 Granby Subd.
- 120767 May 12 - Exempting C.P.R. from erecting and maintaining fences between certain mileages, Port Alberni Subd., B.C.
- 120768 May 12 - Amending Order No. 109687 which authorized the Ont. Dept. of Highways to construct Highway No. 17 across and over the C.P.R., in the Twp. of Corman, mileage 116.49 Kaministiquia Subd.

- 120769 May 12 – Amending Order No. 109333 which authorized the City of Brantford to reconstruct subway at C.N.R. crossing and Clarence Street, mileage 22.69 Dundas Subd. and the C.N.R. to construct a temporary track diversion across Clarence St. and make alterations to signal protection to provide for the temporary diversion.
- 120770 May 12 – Authorizing the Quebec North Shore and Labrador Rly. Co. to erect and mark signboards at certain highway crossings of their railway.
- 120771 May 12 – Authorizing the C.P.R. to relocate the reflectorized crossing signs from crossings at mileages 22.17 and 26.20, Lake Erie and Northern Rly. to a crossing of wye track opposite mileage 4.30 Waterloo Subd. (Grand River Rly.) and the crossing of highway at mileage 27.24 Elora Subd.
- 120772 May 12 – Authorizing the Dept. of Highways & Transportation of the Province of Saskatchewan to construct Highway 301 over C.N.R. mileage 34.20 Central Butte Subd., in the SE¼ 5-17-25-W2M.
- 120773 May 12 – Authorizing the C.N.R. to operate over private siding serving Shaw Pipe Protection Ltd. in the vicinity of mileage 1.82 Camrose Subd. and across 21st Street, County of Strathcona, Alta.
- 120774 May 12 – Authorizing the Town of Leamington, Ont. to reconstruct, widen and improve approaches at Elliott Street crossing of The Chesapeake & Ohio Rly. Co., mileage 37.7 No. 1 Subd.
- 120775 May 12 – Authorizing payment from the Railway Grade Crossing Fund towards the cost of placing reflective markings on the sides of railway cars of the C.N.R.
- 120776 May 12 – Authorizing the C.N.R. to install automatic protection at the crossing of Highway No. 16 at Stellako, B.C. mileage 110.0 Nechako Subd.
- 120777 May 12 – Approving changes to automatic protection at the crossing of Marion St., in the City of St. Boniface, Man. mileage 150.49 Old Sprague Subd. C.N.R.
- 120778 May 12 – Authorizing the Department of Highways & Transportation, Saskatchewan to reconstruct and improve subway carrying Highway No. 4 (Victoria St.) across and under C.N.R., City of North Battleford, Sask. mile 0.17 Blackfoot Subd. and authorizing the C.N.R. to construct a temporary diversion of their track on a temporary trestle.

- 120779 May 12 – Authorizing the Highways Department of the Province of Manitoba to widen Provincial Road No. 242 crossing the C.P.R. in the Rural Mun. of North Norfolk, mileage 71.10 Carberry Subd.
- 120780 May 12 – Authorizing County of Red Deer No. 23, Alberta to construct the highway crossing of the C.P.R. in Benalto at mileage 24.56 Alberta Central Subd., and to improve vision at said crossing.
- 120781 May 12 – Authorizing the Highways Department of the Province of Manitoba to widen Highway No. 25 crossing the C.N.R. near Rivers, Man., mileage 144.60 Rivers Subd.
- 120782 May 12 – Authorizing the Twp. of North York, Ontario to construct a subway, eliminating an existing crossing, to carry Finch Ave., West, across and under C.P.R. mileage 7.81 MacTier Subd.
- 120783 May 12 – Authorizing the Nova Scotia Department of Highways to widen and install protection at crossing of the D.A.R. and Hogan Road in Weymouth, N.S. mileage 40.62 Yarmouth Subd.
- 120784 May 12 – Authorizing the Twp. of Alberton, Ontario to construct Kehl Road across C.N.R. mileage 96.15 Fort Frances Subd.
- 120785 May 12 – Authorizing the Department of Highways & Transportation, Saskatchewan to widen Highway No. 6 where it crosses C.N.R. mile 107.92 Lewvan Subd. between the NE¼, 18-16-19 and NE¼, 13-16-25 W2M.
- 120786 May 12 – Authorizing the County of Newell No. 4, Alberta, to install protection at crossing of the C.P.R. and County Road, mileage 59.66 Brooks Subd.
- 120787 May 12 – Authorizing the Town of Brampton, Ontario to construct a pedestrian crossing at grade across C.N.R. at the end of West Street.
- 120788 May 13 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R. mile 16.5 Strathroy Subd., Ont.
- 120789 May 13 – Approving changes to automatic protection at crossing of Archibald Street and the C.N.R. in St. Boniface, Manitoba, mileage 151.50 Old Sprague Subd.
- 120790 May 13 – Approving location of proposed additional flammable liquid storage facilities of Imperial Oil Ltd. at Wood Mountain, Sask. near mileage 28.07 Wood Mountain Subd., C.P.R.
- 120791 May 13 – Authorizing the C.N.R. to operate under overhead bridge at mileage 56.70 Strathroy Subd., Ont.

- 120792 May 13 – Authorizing the Department of Highways & Transportation, Saskatchewan to widen Highway No. 308 where it crosses the C.P.R. at mileage 44.75 Neudorf Subd. between the NW $\frac{1}{4}$ -34-15-30 and SW $\frac{1}{4}$ -3-16-30-W1M.
- 120793 May 13 – Authorizing the National Capital Commission to construct two temporary crossings at Alta Vista Drive, mileage 76.4 Alexandria Subd. of the C.N.R. and wye track connecting Alexandria Subd. with Sussex St. Subd. of C.P.R. City of Ottawa, Ont.
- 120794 May 13 – Authorizing the Quebec Department of Roads to widen highway crossing C.N.R. in the Twp. of Joannes, County of Noranda-Rouyn, mileage 88.2 Val d'Or Subd.
- 120795 May 13 – Approving pedestrian walkway along west side of Centre St., across the C.P.R. in the Town of Bow Island, Alberta.
- 120796 May 13 – Authorizing the C.N.R. to operate over track serving Fred A. Lallamand Co. Ltd. which commences at mileage 81.25 Massena Subd. and crosses St. Catherine and Notre Dame Streets in the Town of Laprairie, P.Q.
- 120797 May 13 – Amending Order No. 120361 which authorized the Quebec Department of Roads to construct a temporary connecting road between Pitt St. and La Verendrye Blvd. in the City of Montreal, across the C.N.R. at mileage 0.66 Cote St. Paul Spur.
- 120798 May 13 – Approving changes to automatic protection at crossing of the C.N.R. and Main Street in Vars, Ontario mileage 60.87, Alexandria Subd., C.N.R.
- 120799 May 13 – Authorizing the City of Calgary, Alberta to construct a pedestrian crossing across C.P.R. mileage 4.43 Laggan Subd.
- 120800 May 13 – Authorizing the C.N.R. to install automatic protection at crossing of their railway and St. Thomas Road in the Municipality of St. Zotique, P.Q. mileage 41.59 Cornwall Subd.
- 120801 May 13 – Approving clearance on C.N.R. siding track serving Drummond, McCall & Co. Ltd. at Lakeside, N.S. off mileage 4.50 Chester Subd.
- 120802 May 13 – Authorizing the removal of the speed limitation at crossing of the highway and C.N.R. at Boutilliers Point, N.S. mileage 22.74 Chester Subd.
- 120803 May 13 – Authorizing the removal of the speed limitation at crossing of the highway and C.P.R. at mileage 22.70 Windsor Subd., Ontario.

- 120804 May 13 – Authorizing the removal of the speed limitation at crossing of the highway and C.P.R. at Portage la Prairie, Man. mileage 57.38 Carberry Subd.
- 120805 May 13 – Approving location of proposed flammable liquid bulk storage facilities of Imperial Oil Ltd. at Virden, Man. near mileage 47.2 Broadview Subd., C.P.R.
- 120806 May 13 – Approving changes to automatic protection at crossing of C.P.R. and Dawson Road, St. Boniface, Man. mileage 150.11 Old Sprague Subd.
- 120807 May 13 – Approving changes to automatic protection at crossing of C.N.R. and 7th Range Road in St. Cyrville P.Q. mileage 91.77 Drummondville Subd.
- 120808 May 13 – Authorizing the C.N.R. to make track and signal changes at crossing of their railway and Anne St., in Barrie, Ont. mile 0.46 Meaford Subd.
- 120809 May 16 – Approving Revised Appendix "A" and Supplements Nos. 5, 6 and 7, to Traffic Agreement between The Bell Telephone Company of Canada and Muskoka and Parry Sound Telephone Co. Ltd.
- 120810 May 16 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and highway at Canrobert, P.Q. mileage 7.38 St. Guillaume Subd.
- 120811 May 16 – Assessing the cost of maintenance of the crossing of the C.N.R. and the highway between Sections 2 and 11, Twp. 10, Range 21, W2M, at mileage 31.72 Avonlea Subd. on the R.M. of Caledonia No. 99, Sask.
- 120812 May 16 – Authorizing the C.N.R. to install signals on their Edmonton East Terminal Subd. between mileage 0.0 and mileage 3.2 at Edmonton, Alta.
- 120813 May 16 – Approving changes to automatic protection at the crossing of the C.P.R. and Highway No. 24 near Hartland, N.B. at mileage 63.10 Shogomoc Subd.
- 120814 May 16 – Approving location of proposed flammable liquid bulk storage and handling facilities at Belleville, Ont. near mileage 220.7 Gananoque Subd., C.N.R.
- 120815 May 16 – Approving location of proposed flammable liquid bulk storage and handling facilities at Belleville, Ont., near mileage 220.7 Gananoque Subd., C.N.R.

- 120816 May 16 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 36 in Ste. Martins, P.Q. mileage 0.13 Beauharnois Spur.
- 120817 May 16 – Authorizing the C.N.R. to install protection at the crossing of their railway and an access road to Carberry, Man. at mileage 5.16 Carberry Subd.
- 120818 May 16 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and P.T.H. No. 3, west of Melfort, Sask. mileage 100.74 Tisdale Subd.
- 120819 May 16 – Authorizing the Highways Department of the Province of Manitoba to widen Provincial Highway No. 350 across C.P.R. between the SW¼ of Sec. 24 and the SE¼ of 33-11-10-WPM mileage 77.23 Carberry Subd. North Norfolk, Man.
- 120820 May 16 – Authorizing the C.N.R. to operate under the overhead bridge carrying the T.C.H. across and under their right of way near the Town of Grand Falls, Nfld. mileage 281.6 Bishop's Falls Subd.
- 120821 May 16 – Authorizing the City of Charlesbourg, P.Q. to widen and improve 47th St. East where it crosses the C.N.R. mileage 2.68 St. Raymond Subd. and authorizing the C.N.R. to relocate the protection to provide for the widened crossing.
- 120822 May 16 – Authorizing the C.N.R. to operate under the dual overhead bridges carrying Charest Blvd. across their right of way in City of Ste. Foy, P.Q. mileage 10.13 Bridge Subd.
- 120823 May 16 – Authorizing the Ont. Department of Highways to relocate Highway No. 69 from its present location at mileage 272.57 Bala Subd. to cross the C.N.R. at mileage 272.51 Bala Subd., in the Twp. of Capreol.
- 120824 May 16 – Approving Supplement to Traffic Agreement between The Bell Telephone Company and La Tuque Telephone Company.
- 120825 May 17 – Authorizing the Town of Leamington, Ont. to widen and improve Hazelton Street, where it crosses the C. & O.R. and authorizing the railway company to install automatic protection at the crossing, mileage 37.9 No. 1 Subd.
- 120826 May 17 – Authorizing the National Capital Commission to construct one additional track across Conroy Road in the City of Ottawa, Ont. mileage 1.90 Walkley Line (C.N.R.) and to install automatic protection at the crossing.

- 120827 May 17 – Approving Supplement to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Telephone Champlain Ltee.
- 120828 May 17 – Approving Supplement to Traffic Agreement between The Bell Telephone Company and Lievre Valley Telephone Co.
- 120829 May 17 – Authorizing the removal of the speed limitation at crossing of highway and C.P.R. at Brucy, P.Q. mileage 16.62 Winchester Subd.
- 120830 May 17 – Authorizing the C.P.R. to remove the station agent and the station building at Watt, N.B. mileage 14.8 St. Stephen Subd.
- 120831 May 17 – Authorizing the C.P.R. to remove the station building at Johnville, P.Q. mileage 58.2 Megantic Subd.
- 120832 May 17 – Authorizing the removal of the speed limitation at crossing of Howard Avenue and C.P.R. in Windsor, Ont. mileage 109.70 Windsor Subd.
- 120833 May 17 – Authorizing the installation of automatic protection at the crossing of the C.N.R. and Provincial Road No. 331, at Newton, Man. mileage 45.94 Rivers Subd.
- 120834 May 17 – Authorizing the installation of automatic protection at the crossing of the Chesapeake and Ohio Railway Co. and Kent County Road No. 3 at Renwick, Ont. mileage 50.5 No. 1 Subd.
- 120835 May 18 – Authorizing the C.N.R. to operate through the interlocking at the Washago swing bridge at mileage 89.90 Bala Subd., Ont.
- 120836 May 18 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and 7th Street (Lake Blouin Road) Val d'Or, P.Q., mileage 36.82 Val d'Or Subd.
- 120837 May 19 – Authorizing the City of Montreal, P.Q. to construct Metro-Rapid Transit No. 2 underground subway across and under subway which carries the C.N.R. at Barri Street, mileage 139.7 Joliette Subd.
- 120838 May 19 – Authorizing the Quebec Department of Roads to widen existing structure and construction of a new structure to provide dual overhead bridges to carry Highway No. 15 across and over C.N.R. in City of Giffard, mileage 2.59 Murray Bay Subd.
- 120839 May 19 – Authorizing the C.P.R. to construct a siding across Municipal Road in the M.D. of Kneehill No. 48, Alta. at mileage 0.10 of siding off mileage 2.66 Wimborne Subd.

- 120840 May 19 – Authorizing the Alberta Department of Highways to construct twin overhead bridges to carry Highway No. 14 across and over C.N.R. near City of Edmonton, mileage 3.98 Camrose Subd.
- *120841 May 20 – Vacating and setting aside Order 118557 dated September 27, 1965 which postponed the proposed amendments to Canadian Car Demurrage rules and charges (see page 969, 56 B.T.C.)
- 120842 May 19 – Authorizing the Town of Provost, Alberta to reconstruct Argyle Street where it crosses the C.P.R. at mileage 76.03 Hardisty Subd. by widening the crossing, improving the approaches and improving the vision, at said crossing.
- 120843 May 19 – Authorizing the C.N.R. to operate under the overhead bridge carrying County Road No. 10 (Main St.) across their track in Town of Chesley, Ont. mileage 36.59 Owen Sound Subd.
- 120844 May 19 – Authorizing the Saskatchewan Department of Highways & Transportation to construct the north service road across C.N.R. in the SE¼-2-17-20 W2M at mileage 111.75 Lewvan Subd.
- 120845 May 19 – Authorizing the Highways Department of the Province of Manitoba to widen Prov. Highway No. 25 where it crosses the C.P.R. at mileage 18.44 Lenore Subd. between the SE¼ of Sec. 20 and the SW¼ of Sec. 21-12-21-WPM at Wheatland in R.M. of Daly.
- 120846 May 19 – Authorizing The Consumers' Gas Co. to install a 6,625 inch steel natural gas pipeline under C.N.R. along Dixie Road in the Twp. of Toronto, Peel County, Ont. at mileage 10.19 Oakville Subd.

Canada The Board of **Transport Commissioners for Canada**

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the proposed discontinuance of Canadian Pacific Railway Company's passenger trains Nos. 132-133 and 137-138, operating between Montreal and Ottawa via Lachute Subdivision.

File No. 15938

June 29, 1966

BEFORE:

J.E. DUMONTIER,

J.M. WOODARD,

Deputy Chief Commissioner.

Commissioner.

APPEARANCES:

K.D.M. SPENCE, Q.C.,

and

M.S. BISTRISKY

ROGER REGIMBAL, M.P.,

ALEXIS CARON, M.P.,

GASTON CLERMONT, M.P.,

DR. ZOEL SAINDON, Mayor,

J. PAUL NEVEU, Mayor,

YVON PILON, Mayor,

ALONZO PROULX, Mayor,

J. RENE LAFLEUR, Mayor,

RHEAL SABOURIN, Mayor,

L. BOUCHARD, Mayor

REGENT MONTPELLIER, Mayor,

OMER DESJARDINS, Mayor,

AURELE LAPLANTE, Mayor,

E. SEGUIN, President,

DONAT THIBAudeau,

for Canadian Pacific Railway Company.

Argenteuil-Deux-Montagnes.

Hull.

Labelle.

Lachute.

Ripon.

Lac Simon.

Chénéville.

Brownsburg; Warden, Argenteuil County.

Fassett.

Masson, (Buckingham).

Montpellier.

Ste. Angélique of Papineauville.

Plaisance.

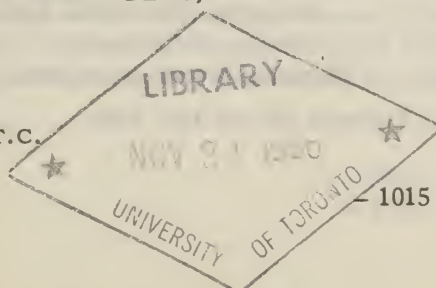
Buckingham Chamber of Commerce.

Secretary, Township of Lochaber;

Secretary, Agricultural Society,

County of Papineau.

56 B.T.C.



APPEARANCES (Continued)

GASTON DUMOUCHEL,
K.W. MacGIBBON,
J.A. HAYMAN,

MAURICE GOUGEON,

MADAME R. LAPOINTE,
MADAME A. BRISSON,
A.J. WHITEWAY,

ROBERT HAYDON,

L.P. COUTURE,

JULES BIRON,
OSCAR ALLARD,

ROGER ROLLIN,
J.F. WALTER,

CLEMENT LEGAULT,
RICHARD AYERS,
HORACE LAMARCHE,
T. ZAPLASKI,

LEO MONGEON,
THOMAS CRESWELL,
JOSEPH SANTINI,

MADAME ROGER GRAVEL,

PHILIPPE GUENETTE,

LEOPOLD LACROIX,

GASTON RENAUD,
CAMILLE POLIQUIN,
EMILE LAVIOLETTE,

PIERRE HAYES,

*Councillor, Township of Lochaber.
Plant Manager, C.I.L., Brownsburg.
Comptroller, Dominion Ayers Limited, Lachute.*

representing citizens of Argenteuil-Deux-Montagnes.

Lachute, in person.

Lachute, in person.

President, Lachute Home & School Association.

President, Robert W. Haydon Company.

representing Thurso Pulp and Paper Co., Thurso.

Alderman, Thurso.

President, Gatineau Chamber of Commerce.

Alderman, Ville Gatineau.

Assistant Grand Chief, Brotherhood of Locomotive Engineers.

Terrebonne Chamber of Commerce.

Director, Dominion Ayers Limited.

representing Argenteuil Hospital.

representing Rotary Club,

Brownsburg and Lachute.

Alderman, Buckingham.

representing Netherdale Estate.

representing Lachute Chamber of Commerce.

representing Lachute Parent-Teachers Association.

representing J.C. Wilson Limited, Lachute.

representing Voyageur Provincial Inc.

Secr tary, Buckingham.

Warden, Papineau County.

representing Argenteuil-Deux-Montagnes-Terrebonne Regional Chamber of Commerce.

Secretary-Treasurer, Masson.

Heard at Lachute, Que., February 1st and 2nd, 1966.

JUDGMENT

DUMONTIER, D.C.C.

The Canadian Pacific Railway Company notified the Board on September 21st, 1964, that due to Revenues being less than Direct Expenses, passenger trains 132-133 daily and 137-138 operating Saturday only, between Montreal and Ottawa, via Lachute, would be discontinued effective October 25, 1964.

After studying the representations made in opposition to the Railway's proposal, as well as the volume of passenger traffic carried by these trains, the Board directed Canadian Pacific to continue operating trains 132-133 daily and 137-138 Saturday only, pending a public hearing to determine whether the operation of such trains should be continued or allowed to be discontinued.

On January 4, 1966, the Railway submitted a number of documents and statements in support of their proposal to discontinue the operation of these trains. A copy of these documents and statements was served on all the interested parties who had indicated their opposition to the Railway's proposal.

At sittings held February 1st and 2nd, 1966, Mr. G.E. Benoit, Vice-president of the C.P.R. for the Atlantic Region, indicated in his testimony that because the MacPherson Royal Commission had made a strong recommendation that passenger trains which were operating at a deficit should either be reduced or completely eliminated, he had had their Research Department look into the situation and discovered that the passenger trains on the Lachute Subdivision were losing for a period of one year from October 1964 to the end of September 1965 some \$102,000 per year for the whole passenger train operation on this line. Mr. Benoit indicated that the men who would be displaced due to the discontinuance of this train service would exercise their seniority elsewhere but that the men would not lose employment because there are vacancies for spare men at the present time on the Laurentian Division.

Mr. Benoit referred in his testimony to the highway parallelling the railway between Montreal and Ottawa on the North Shore and stated that this was one of the considerations that was taken into account when the Railway decided to discontinue the operation of these trains. He also stated that two trains a day in each direction and three trains a day on Saturday on the North Shore between Ottawa and Montreal provided a better service of local trains than on the majority of other subdivisions.

Mr. Benoit also stated that the Railway would save approximately \$42,000 a year if trains 132-133 and 137-138 were discontinued but would still be losing some \$60,000 with the remaining passenger train service.

He did not see any inconvenience whatsoever in discontinuing this service in view of the trend shown by the latest report of the Dominion Bureau of Statistics indicating that 85.1 per cent of the public at the present time is travelling

by automobile; some five per cent travelling by inter-city bus lines; five per cent by airlines and some 4.6 by railway.

In cross-examination, Mr. Clermont, Member for Labelle, asked the witness how 86,000 passengers, as were transported by trains 132-133 in 1964, would be travelling when there is only one bus daily in each direction. Mr. Benoit replied that if the company was permitted to discontinue the operation of the trains, the bus company would be ready to increase its service.

Mr. Robert Tittley, Manager of Voyageur Provinciale Incorporee, filed as exhibit a timetable showing bus schedules in effect between Montreal and Ottawa via Lachute. There is one trip daily, Montreal to Ottawa; two additional trips are made on Friday; one on Saturday and one on Sunday. In the reverse direction, one is scheduled daily except Sunday; two additional trips are made on Friday; one on Saturday and two on Sunday.

Mr. Tittley testified that Metropolitan Provinciale Incorporee, operates a distinct service between Lachute and Montreal making three round-trips per day with additional service during the weekends. The witness also stated that his company would be prepared to provide additional service in the event that the passenger trains were discontinued.

Mr. A.E. Brown, Research Analyst of the Railway, filed statements showing Revenue passengers carried on trains 131-132, 133-134, 137-138 between Montreal and Ottawa during the years 1962, 1963 and 1964 and for the first nine months of 1965; statements showing the average number of Revenue passengers and statements of Revenue passengers entraining and detraining between Montreal and Ottawa for the period November 12 to November 18, 1964, and August 23 to August 29, 1965. He also filed a statement of Estimated Revenues and Variable Expenses for these trains during the twelve-month period, October 1964 to September 1965, inclusive.

Mr. Kenneth H. Brink, Supervisor of Cost Projects for the Railway, filed a statement showing the Variable Expenses for trains 131-132, 133-134 and 137-138 for the period October 1964 to September 1965 and explained how these figures were arrived at. In reply to a question by Mr. Clermont, M.P., Mr. Brink stated that the cost of operating train 137-138, which is the train operating only on Saturdays, is estimated at \$23,826 but said in reply to a question by Commissioner Woodard, that the financial improvement resulting from its discontinuance would be roughly \$8,000.

Mr. G. Walsh, General Passenger Agent of the Railway, stated in his evidence that there was an acceleration of the schedule after the introduction of RDC equipment in 1957. He also stated that prior to January 15, 1961, the one-way coach fare between Montreal and Lachute was \$2.10 and between Montreal and Ottawa, it was \$4.30. With the introduction of the fare-saver plan, the fares were modified several times and are now as follows: one-way coach,

Montreal to Lachute, except Fridays and Sundays, \$1.85; Fridays and Sundays, \$2.10 and between Montreal and Ottawa, \$2.90, except Fridays and Sundays, and \$3.40 on Fridays and Sundays.

Mr. Walsh explained that because Canadian National had reduced their fares on the South Shore, Canadian Pacific had to reduce theirs on the South Shore and on the North Shore.

Mr. Caron, Member of Parliament for Hull, stated that in the past, reductions in train service had been made on the Gatineau line and on the Pontiac line and now the people are forced to travel by automobile. Today, these railway lines serve only for freight service. He thought that the Railway was preparing to do the same thing with the railway line between Ottawa and Montreal via Lachute. Mr. Caron stated that revenues from freight service should be taken into consideration in deciding about discontinuance of passenger trains.

Mr. Clermont, Member for Labelle, stated that it was in the public interest that the C.P.R. continue the operation of these passenger trains as it would not be easy to transport 86,000 persons per year by other means. Mr. Clermont pointed out that the last figures submitted by the Railway for the first nine months of 1965, show that the number of passengers has increased. He also mentioned that due to EXPO '67 to be held in Montreal many people will not be able to reach Montreal by automobile and next year the train service will prove to be more useful than ever.

Mr. Regimbal, Member for Argenteuil-Deux-Montagnes, mentioned that the present train service permits round trips to Montreal or Ottawa the same day but if trains 132-133 were to be eliminated, the remaining service would place the users of train service in the position of having to stay overnight in Montreal or Ottawa, as the case may be. Mr. Regimbal also mentioned the bad condition of the road and stated that for the majority of train users, the road is a poor substitute for travelling. He did not think that there could be sufficient buses to accommodate the travelling public in the event that trains were discontinued. Mr. Regimbal stated that figures for trains 137-138 show that these trains carry a number of passengers which is below average and that if the C.P.R. considered that it could not afford to give that service, the public interest would be less affected by the discontinuance of these trains than it would be by the discontinuance of the other daily trains 132-133.

Mrs. Gravel, representing the Lachute Parent-Teachers Association, referred to the sick people who have to travel to Montreal for special care and to the handicapped children who have to go to Montreal three times a week. She also mentioned the old people who have to go to Montreal for treatments that they cannot get in local hospitals. She also mentioned students who study in Montreal and come home for the weekends. Mrs. Gravel suggested that instead

of discontinuing the operation of these trains that the schedule should be revised in order to improve the service.

Mr. Lafleur, Mayor of the Village of Brownsburg, stated that adequate means of transportation are necessary for industrial development especially in areas remote from the large centres. He pointed out that the figures supplied by the Railway indicate that the number of passengers has increased since 1962 and asked that the present train service be maintained.

Dr. Saindon, Mayor of the Town of Lachute, stated that the town opposes the discontinuance of the present train service provided by trains 137-138 and trains 132-133 between Montreal and Ottawa. He mentioned that Lachute is the center of an area with a population of 40,000 people which has to communicate constantly with Montreal and Ottawa. He stated that this public service is necessary and essential from a medical point of view on account of the specialized treatment centres in Montreal and Ottawa and also to permit students to attend special institutions at Montreal and Ottawa.

Mr. Whiteway, President of the Lachute Home and School Association, presented a petition pointing out that a good train service is essential to develop and maintain a good teaching staff for the schools and to the children of the district who must have special medical care in Montreal and cannot travel by automobile. The petition also mentioned that with EXPO '67 in view, train service is essential to young and old of the district. He also mentioned that existing roads into and out of Lachute are less than first class highways and present many hazards and discomforts.

Mr. Laviolette, representing the Regional Chamber of Commerce of Argenteuil-Deux-Montagnes-Terrebonne, suggested that the train service be improved by changing the schedule. He mentioned that the rates were reduced when revenues were not sufficient to cover the cost of operation and that it appeared that the Company was doing that to show a greater deficit. He stated that he did not know of any public organization that had made representations in order to obtain lower rates and he was wondering why this had been done. Mr. Laviolette did not think that the bus company could in view of the present condition of the Montreal-Ottawa Highway replace the service now given by the passenger trains.

Mr. Jones, representative of the Brownsburg-Lachute Rotary Club, stated that the trains at the present time do not operate at a time which is suitable to get the businessmen into Montreal to carry on their business during the day. He felt that if the train schedule was changed, there would be a big increase in the use of the train by the businessmen.

Mr. Richard Ayers stated that he is a regular user of trains 132-133. He uses these trains on an average of twice a week and thinks that it would be

regrettable if these trains were discontinued. He stated that he prefers to use the train rather than his automobile because he finds his automobile useless in the city.

Mr. Santini, President of the Chamber of Commerce of Lachute, stated that the trains are used by an increasing number of students attending the Universities of Montreal and Ottawa and other institutions. He considers that for Expo '67 and the Centennial Year people will prefer travelling by train because the City of Montreal will not be able to accommodate the increasing automobile traffic that is expected for these important events.

Mr. Lamarche, Director of l'Hôpital d'Argenteuil asked that the passenger train service be maintained as it is required for sick people from Lachute who must go to Montreal regularly for special treatments. He also mentioned that many of these sick people are old or are not in a condition to drive an automobile and require a minimum of comfort that could not be obtained by other modes of transportation.

The Railway's Counsel in his summation stated that there is only one issue in this case and that is if the trains in question are withdrawn will the inconvenience to the public outweigh the loss to the Railway? Mr. Spence argued that there is no need for the through service of this train between Montreal and Ottawa as Montreal and Ottawa are oversupplied with service with eleven trains a day operating each way. He stated that if there is a need at all for this train it is to supply the local intermediate points along the North Shore but those points will still have other daily train service available in both directions. He considered that the only inconvenience to the public will be in having to travel at a different time of day and those who insist upon travelling at the same time as they did before will be able to use a bus. With respect to the public inconvenience, Counsel stated that there was some very important evidence given by Mr. Tittley of the Provincial Transport who said with full confidence and authority that his company was prepared to carry any and all passengers from trains 132-133 and 137-138 if those trains were discontinued and he said that the schedules of his buses were virtually comparable to those of the trains in question and that his company operated modern, air-conditioned equipment of the most comfortable type.

Mr. Spence argued that statements filed in evidence concerning revenues and expenses were most completely and thoroughly proved by the evidence of their witnesses and were not undermined in any degree at all by any cross-examination that was given to those witnesses. Mr. Spence also stated that in previous cases, the Board had discounted some of their figures making an arbitrary increase in the revenue figures and a reduction in some of their costs, and submitted that the Board should not make these adjustments to figures that have been firmly established and proved in evidence by their witnesses at the hearing.

In conclusion, Mr. Spence stated that the figure of \$42,600 is the minimum saving that will be gained by the discontinuance of these trains and that this figure far outweighs the inconvenience that the public will experience from the reduction of passenger train service and that the Board should approve the proposal made by the Railway Company.

Findings and Conclusions

The proposed discontinuance of passenger trains 132-133 and 137-138 has been opposed by all municipalities, chambers of commerce and other public organizations along the Lachute Subdivision from Montreal to Hull. This opposition has been supported by all members of Parliament representing the population affected by this proposal.

The main reasons given against the Railway's proposal may be summarized as follows: the number of passengers has increased in 1964 and 1965, the inadequacy of Highway No. 8 and the difficulty of transporting by other modes of transportation the 86,000 passengers presently transported by trains 132-133, the impossibility of going to Montreal or Ottawa by train and returning the same day if trains 132-133 are eliminated, the need of the present train service for sick, handicapped and old people who must go to Montreal for special treatments that are not dispensed in local hospitals and for students who attend special schools or the universities of Montreal or Ottawa, and the necessity of an adequate passenger train service during the Centennial Year and for Expo '67.

In support of its proposal, the Railway contends that it is losing \$42,000 per year by maintaining this service and that very little inconvenience will result as the users of the train service will be able to travel by bus.

I agree with the Railway's Counsel that the issue in this case is that "if the trains in question are withdrawn, will the inconvenience to the public outweigh the loss to the Railway?" This is in accordance with the principles followed by the Board in similar cases in the past.

I disagree, however, with Counsel's statement that "the Board should not make adjustments to figures that have been firmly established and proved in evidence by their witnesses at the hearing." The Railway had the advantage of expert witnesses to present figures which are obtained sometimes through very complicated processes and I cannot agree that these figures should be accepted simply because none of the parties in opposition have the necessary knowledge to probe them effectively. I consider that it is the duty of this Board to review the figures presented and to make corrections, if necessary, so that they will represent a reasonably fair picture of the situation.

Exhibits 7 and 9 were submitted by the company to show estimated revenues and variable expenses on the present operating basis for the entire passenger service on trains 131, 132, 133, 134, 137 and 138, and also the proposed operation

of trains 131-134 only, between Montreal and Ottawa (North Shore). The difference between the net annual deficit of the present service and that which would be incurred by the proposed service represents the financial improvement which the company estimates would ensue from discontinuance of trains 132-133 and 137-138.

These exhibits now appear below as submitted by the company.

Estimated Revenues and Variable Expenses, Trains 131, 132, 133, 134, 137, 138, between Montreal and Ottawa (via North Shore) during the 12-month period October 1964 to September 1965 inclusive and the Estimated Annual Revenues and Variable Expenses of Proposed Operation of Trains 131, 134 only between Montreal and Ottawa (via North Shore)

Exhibit #7

	Amount	
	Present	Proposed
Gross Revenue		
Passenger Rail Fares	\$ 362,716	\$175,309
Express	4,316	4,112
Total	\$ 367,032	\$179,421
Say	\$ 367,000	\$179,400
Expenses		
Estimated Annual Operating Cost of Passenger Trains	\$ 466,566	\$236,480
Express Company	2,818	2,685
Total	\$ 469,384	\$239,165
Say	\$ 469,400	\$239,200
Net Annual Earnings (Deficit)	\$(102,400)	\$(59,800)
Financial Improvement	<u>\$42,600</u>	

Revised Exhibit #9

Item of Expenses	Amount	
	Present	Proposed
Fuel	\$ 31,253	\$ 15,143
Enginemen's Wages	39,765	18,939
Trainmen's Wages	66,650	31,781
Station Employees	18,386	18,386
R.D.C. Repairs	144,758	69,951
Locomotive Repairs	701	396

Revised Exhibit #9 (Cont'd)

Item of Expenses (Cont'd)	Amount	
	Present	Proposed
Enginehouse Expenses	\$ 214	\$ 121
Passenger Car Repairs	787	478
Train Other Expenses	38,575	18,712
Variable Road Maintenance	10,192	4,958
General and Communications	39,646	20,172
Joint Facility (Ottawa Union Station)	18,375	8,917
Equipment Depreciation	15,820	7,910
Cost of Money – R.D.C.	33,606	16,803
– Road Property	7,838	3,813
Express Company	2,818	2,685
Total	\$ 469,384	\$239,165
Say	\$ 469,400	\$239,200
Net Annual Earnings (Deficit)	\$(102,400)	\$(59,800)
Financial Improvement		<u>\$42,600</u>

In respect of passenger rail fare revenues on both present and proposed bases, the company witness Mr. A.E. Brown explained that these were determined on the basis of the actual passengers carried during the year ending September 30, 1965, this number being multiplied by the average revenue per passenger carried, earned by the company, as developed on the basis of two one-week samples of passenger revenues for the weeks November 12th to 18th, 1964 and August 23rd to 29th, 1965. On the proposed basis, no allowance had been made for extra revenue which might accrue to trains 131-134, after discontinuance of trains 132-133 and 137-138.

In reply to a question by Mr. Regimbal as to whether commuters had been included in the actual number of passengers carried, Mr. Brown replied that they were. He stated that the passengers carried had been counted during the two test weeks by the conductors on the trains and by other staff independently assigned to do so, and that the records of each had agreed. I have had our Board analysts examine the original records of these counts and they have confirmed that commuter passengers using multiple trip tickets as well as all through passengers beyond Ottawa or Montreal have been included.

It was estimated by the company that the small volume of express now being carried on the trains would not be greatly affected by discontinuance of trains 132-133 and 137-138.

Explanations were given by Mr. Kenneth H. Brink, cost witness for the company, in respect of the variable expenses estimated on the present operation of trains 131, 132, 133, 134, 137 and 138 and also on the proposed operation of trains 131 and 134 only.

I have had a study made of these expenses on both bases, and after adjustments for the reasons given hereinafter, I will accept the following for purposes of this Judgment.

	<u>Present</u>	<u>Proposed</u>
Fuel, Wages, Repairs and Train		
Other Expenses	\$320,600	\$163,200
Variable Road Maintenance	5,000	2,500
General and Communications	31,900	16,300
Joint Facility (Ottawa Union Station)	18,300	8,900
Equipment Depreciation	15,800	7,900
Express Company	2,800	2,700
Total Expenses	<u>\$394,400</u>	<u>\$201,500</u>

Reductions have been made from the cost of fuel, wages, repairs and train other expenses as submitted on Exhibit 9 for amounts which the company has stated are to cover supervision and associated overhead charged; these figures having been developed through multiple regression analysis. I am not satisfied that these amounts for supervision and overhead would be saved through discontinuance of the passenger service, either on the present or proposed basis.

The variable portions of road maintenance claimed by the company on Exhibit 9 also have been developed by means of multiple regression analysis. I am not convinced that these amounts (\$10,192 and \$4,958) would be saved in full, and so have reduced the company's estimates accordingly.

General and Communications expense was explained by the cost witness as consisting of the pension and unemployment insurance contributions made by the company, as well as the variable portion of accounting, communications and other costs which would be saved on the longer term. While a certain amount of variability may be ascribed to these items, I am not satisfied that the discontinuance of passenger services being studied would result in a saving as claimed, and so I have made certain reductions.

In past cases, the Board has not recognized cost of money as an item of variable expense, although it has been considered in determining financial improvement based on a rate of 5%. I will accordingly apply a rate of 5% on the R.D.C. equipment, and will consider \$14,700 as being cost of money on the present basis and \$7,400 on the proposed operation of trains 131 and 134 only. I am not satisfied however, that any financial improvement would ensue to the

company in respect of road property, and have disallowed the full amounts claimed on the investment in road property.

The effect of the foregoing adjustments result in changes to Exhibit 7 as follows:

EXHIBIT 7 (As Revised by the Board)

	Amount	
	Present	Proposed
Gross Revenue		
Passenger Rail Fares	\$362,716	\$175,309
Express	4,316	4,112
Total	\$367,032	\$179,421
Say	\$367,000	\$179,400
Expenses		
Estimated Annual Operating		
Cost of Passenger Trains	\$394,400	\$201,500
Express Company	\$ 2,818	\$ 2,685
Total	\$397,218	\$204,185
Say	\$397,200	\$204,200
Net Annual Earnings (Deficit)	\$(30,200)	\$(24,800)
Financial Savings on Proposed Basis	\$5,400	
Cost of Money (Net)	<u>\$7,300</u>	
Financial Improvement on Proposed Basis	<u>\$12,700</u>	

The increase in the number of passengers in the last two years, the inadequacy of Highway No. 8 between Montreal and Hull and the prospective demand for the transportation of passengers during the Centennial Year and for Expo '67, are indeed good reasons why the Railway's proposal should not be accepted.

I am of the opinion that, under present conditions, the inconvenience that would result from the discontinuance of passenger trains 132-133 and 137-138, far outweigh the loss to the Railway.

Consequently, the Canadian Pacific Railway Company shall continue to operate trains 132-133 and 137-138 between Montreal and Ottawa via the Lachute Subdivision.

(Signed) J.E. DUMONTIER.

I CONCUR:

(Signed) JOHN M. WOODARD.

OTTAWA, June 29, 1966.

56 B.T.C.

ORDER NO. 121238

WEDNESDAY, THE 29TH DAY OF
JUNE, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

*IN THE MATTER OF the proposed
discontinuance of Canadian Pacific
Railway Company's passenger trains
Nos. 132-133 and 137-138, operating
between Montreal and Ottawa via
Lachute Subdivision:*

File No. 15938

WHEREAS by letter dated September 31st, 1964, the Canadian Pacific Railway Company informed the Board that due to revenues being less than direct expenses, trains Nos. 137-138 which now operate Saturday only and Nos. 132-133 daily, between Montreal and Ottawa via the Lachute Subdivision (North Shore) will be discontinued effective with change of timetable October 25th;

AND WHEREAS on October 9, 1964, the Board of Transport Commissioners for Canada directed Canadian Pacific Railway Company to continue operating trains 137-138 which now operate Saturday only and Nos. 132-133 daily between Montreal and Ottawa via the Lachute Subdivision (North Shore) pending hearing to determine whether the operation of such trains should be continued or allowed to be discontinued;

UPON hearing the matter at a sittings of the Board held at Lachute, P.Q., on February 1st and 2nd, 1966, in the presence of Counsel for the Canadian Pacific Railway Company and other representatives whose names appear on the Judgment; and upon reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Pacific Railway Company shall continue to operate trains Nos. 132-133 and 137-138 between Montreal and Ottawa via the Lachute Subdivision.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

RELATIVEMENT à l'abandon projeté des trains de voyageurs nos 132 et 133 et nos 137 et 138 de la Compagnie de chemin de fer du Pacifique-Canadien circulant entre Montréal et Ottawa par la subdivision de Lachute.

Dossier n° 15938
le 29 juin 1966

DEVANT:

J.-E. DUMONTIER
J.M. WOODARD

*commissaire en chef suppléant
commissaire*

ONT COMPARU:

K.D.M. SPENCE, C.R.,
et
M.S. BISTRISKY }
ROGER RÉGIMBAL, député
ALEXIS CARON, député
GASTON CLERMONT, député
Le docteur ZOËL SAINDON, maire
J.-PAUL NEVEU, maire
YVON PILON, maire
ALONZO PROULX, maire
J.-RENÉ LAFLEUR, maire

*pour la Compagnie de chemin de fer
du Pacifique-Canadien*

RHÉAL SABOURIN, maire
L. BOUCHARD, maire
RÉGENT MONTELLIER, maire
OMER DESJARDINS, maire
AURÈLE LAPLANTE, maire
E. SÉGUIN, président
DONAT THIBAUDEAU

*Argenteuil-Deux-Montagnes
Hull
Labelle
Lachute
Ripon
Lac-Simon
Chénéville
Brownsburg; préfet, comté
d'Argenteuil
Fassett
Masson (Buckingham)
Montpellier
Sainte-Angélique-de-Papineauville
Plaisance
Chambre de commerce de Buckingham
secrétaire, canton de Lochaber;
secrétaire, Société agricole du
comté de Papineau
conseiller, canton de Lochaber
Chef d'usine, C.I.L., Brownsburg
Contrôleur, Dominion Ayers Limited,
Lachute
représentant les citoyens d'Argen-
teuil-Deux-Montagnes*

GASTON DUMOUCHEL
K.E. MacGIBBON
J.A. HAYMAN

MAURICE GOUGEON

MADAME R. LAPOINTE
MADAME A. BRISSON
A.J. WHITEWAY

ROBERT HAYDON

L.-P. COUTURE

JULES BIRON
OSCAR ALLARD

ROGER ROLLIN
J.F. WALTER

CLÉMENT LEGAULT
RICHARD AYERS
HORACE LAMARCHE
T. ZAPLASKI

LÉO MONGEON
THOMAS CRESWELL

JOSEPH SANTINI

MADAME ROGER GRAVEL

PHILIPPE GUÉNETTE

LÉOPOLD LACROIX

GASTON RENAUD
CAMILLE POLIQUIN
ÉMILE LAVIOLETTE

PIERRE HAYES

Lachute, en personne
Lachute, en personne
président, Lachute Home and School
Association
président, Robert W. Haydon Com-
pany
représentant la Thurso Pulp and
Paper Company, Thurso
échevin, Thurso
président, Chambre de commerce de
Gatineau
échevin, ville de Gatineau
grand chef adjoint, Brotherhood of
Locomotive Engineers
Chambre de commerce de Terrebonne
directeur, Dominion Ayers Limited
représentant l'hôpital d'Argenteuil
représentant le club Rotary,
Brownsburg et Lachute
échevin, Buckingham
représentant la succession
Netherdale
représentant la Chambre de commerce
de Lachute
représentant l'Association des
parents-maîtres de Lachute
représentant J.C. Wilson Limited,
Lachute
représentant Voyageur Provincial
Inc.
secrétaire, Buckingham
préfet, comté de Papineau
représentant la Chambre de commerce
régionale d'Argenteuil-Deux-
Montagnes-Terrebonne
secrétaire-trésorier, Masson

Audiences tenues à Lachute les 1^{er} et 2 février 1966

JUGEMENT

DUMONTIER, commissaire en chef suppléant

Le 21 septembre 1964, la Compagnie de chemin de fer du Pacifique-Canadien avisait la Commission qu'en raison du fait que les recettes étaient inférieures aux dépenses directes, elle abandonnerait à compter du 25 octobre 1964 le service quotidien assuré par les trains de voyageurs n°s 132 et 133 et le service assuré le samedi seulement par les trains de voyageurs n°s 137 et 138, entre Montréal et Ottawa via Lachute.

Après avoir étudié les observations présentées en opposition au projet du Chemin de fer, ainsi que le volume du trafic-voyageurs transporté par ces trains, la Commission a enjoint au Pacifique-Canadien de continuer à assurer le service quotidien des trains 132 et 133 et le service le samedi seulement des trains 137 et 138 tant qu'une audience publique n'aurait pas eu lieu pour déterminer si l'exploitation de ces trains devrait se poursuivre ou si la permission de l'abandonner devrait être accordée.

Le 4 janvier 1966, le Chemin de fer présentait un certain nombre de documents et d'états à l'appui de son projet d'abandon de l'exploitation de ces trains. Un exemplaire de ces documents et états a été expédié à toutes les parties intéressées qui avaient fait connaître leur opposition au projet du Chemin de fer.

Aux séances du 1^{er} et du 2 février 1966, M. G.-E. Benoit, vice-président du Pacifique-Canadien pour la région de l'Atlantique, a fait savoir dans sa déposition que, vu que la Commission royale MacPherson avait fortement recommandé soit de réduire, soit de supprimer complètement les trains de voyageurs exploités à perte, il a fait examiner la situation par le Service de recherches du Chemin de fer et a découvert que les trains de voyageurs de la subdivision de Lachute perdaient pendant une période d'un an, soit d'octobre 1964 à la fin de septembre 1965, environ \$102,000 par suite de l'exploitation de tous les trains de voyageurs de cette ligne. M. Benoit a fait savoir que les hommes qui seraient déplacés par suite de l'abandon de ce service de trains exerceraient leur droit d'ancienneté ailleurs mais qu'aucun homme ne perdrait son emploi parce qu'il existe à l'heure actuelle des vacances à pourvoir dans la division des Laurentides.

M. Benoit a mentionné dans sa déposition que la grande route est parallèle au chemin de fer entre Montréal et Ottawa sur la rive nord et a déclaré que c'était l'une des considérations dont il a été tenu compte lorsque le Chemin de fer a décidé d'abandonner l'exploitation de ces trains. Il a ajouté que deux trains par jour dans chaque sens et trois trains le samedi sur la rive nord entre Ottawa et Montréal assuraient un meilleur service de trains locaux que celui qui existe sur la plupart des autres subdivisions.

M. Benoit a déclaré également que le Chemin de fer épargnerait environ \$42,000 par année si les trains 132 et 133 et les trains 137 et 138 étaient

supprimés mais que le reste du service de voyageurs lui ferait encore perdre quelque \$60,000.

Selon lui, l'abandon de ce service ne susciterait aucun inconvénient puisque le dernier rapport du Bureau fédéral de la statistique démontre que, à l'heure actuelle, 85.1 p. 100 du public voyageant par automobile, environ 5 p. 100 par autobus interurbain, 5 p. 100 par avion et quelque 4.6 p. 100 par chemin de fer.

En contre-interrogatoire, M. Clermont, député de Labelle, a demandé au témoin comment voyageraient les 86,000 voyageurs qu'ont transporté les trains 132 et 133 en 1964 s'il n'y avait qu'un seul autobus par jour dans chaque sens. M. Benoit a répondu que si la compagnie recevait la permission d'abandonner l'exploitation de ces trains, la compagnie d'autobus serait prête à augmenter son service.

M. Robert Tittley, gérant de Voyageur Provincial Incorporée, a déposé, comme pièce à l'appui, un indicateur montrant les horaires d'autobus applicables entre Montréal et Ottawa via Lachute. Il y a un voyage chaque jour de Montréal à Ottawa, deux voyages supplémentaires le vendredi, un le samedi et un le dimanche. Dans le sens contraire, l'horaire prévoit un voyage tous les jours, sauf le dimanche, deux voyages supplémentaires le vendredi, un le samedi et deux le dimanche.

M. Tittley a déclaré que Metropolitain Provincial Incorporée exploite un service distinct entre Lachute et Montréal, effectuant trois voyages aller-retour par jour et assurant un service supplémentaire pendant les fins de semaine. Le témoin a également affirmé que sa compagnie serait prête à assurer un service supplémentaire au cas où les trains de voyageurs seraient supprimés.

M. A.E. Brown, analyste de recherches du Chemin de fer, a déposé des états indiquant le nombre de voyageurs payants que les trains 131 et 132, 133 et 134 et 137 et 138 ont transportés entre Montréal et Ottawa pendant les années 1962, 1963 et 1964 et pendant les neuf premiers mois de 1965; des états montrant le nombre moyen de voyageurs payants et des états indiquant le nombre de voyageurs payants qui ont pris le train et en sont descendus entre Montréal et Ottawa pendant les périodes allant du 12 au 18 novembre 1964 et du 23 au 29 août 1965. Il a également déposé un état estimatif des recettes et des frais variables de ces trains pendant la période de douze mois allant d'octobre 1964 à septembre 1965 inclusivement.

M. Kenneth H. Brink, du service de recherche en prix de revient pour le Chemin de fer, a déposé un état montrant les frais variables des trains 131 et 132, 133 et 134 et 137 et 138 pour la période allant d'octobre 1964 à septembre 1965 et a expliqué comment on avait obtenu ces chiffres. En réponse à une question de M. Clermont, député, M. Brink a déclaré que les frais d'exploitation des trains 137 et 138, qui sont les trains qui circulent seulement le samedi,

sont évalués à \$23,826; toutefois, il a dit, en réponse à une question du commissaire Woodard, que l'amélioration financière qui résulterait de la suppression de ces trains serait approximativement de \$8,000.

M. G. Walsh, agent général du service des voyageurs du Chemin de fer, a déclaré dans sa déposition qu'il y a eu accélération du service après l'introduction d'autorails en 1957. Il a également déclaré qu'avant le 15 janvier 1961, le prix d'un passage d'aller entre Montréal et Lachute était de \$2.10 et entre Montréal et Ottawa, de \$4.30. Depuis l'introduction du régime des prix de passage économiques, les prix de passage ont été modifiés plusieurs fois et ils sont maintenant les suivants; prix d'aller en voiture ordinaire, de Montréal à Lachute, sauf le vendredi et le dimanche, \$1.85, le vendredi et le dimanche, \$2.10; entre Montréal et Ottawa, \$2.90, sauf le vendredi et le dimanche, et \$3.40 le vendredi et le dimanche.

M. Walsh a expliqué que, vu que les chemins de fer Nationaux du Canada avaient réduit leurs prix de passage sur la rive sud, le Pacifique-Canadien avait dû réduire les siens sur ses lignes de la rive sud et de la rive nord.

M. Caron, député de Hull, a déclaré que, dans le passé, les services de trains de la ligne de la Gatineau et de la ligne de Pontiac avaient été réduits et que maintenant les gens sont forcés de voyager par automobile. Aujourd'hui, ces lignes ne servent plus qu'au transport des marchandises. A son avis, le Chemin de fer s'apprête à faire la même chose dans le cas de la ligne Ottawa/Montréal via Lachute. M. Caron a déclaré qu'il devait être tenu compte des recettes du service de marchandises dans l'étude de la question de l'abandon des trains de voyageurs.

M. Clermont, député de Labelle, a déclaré qu'il était dans l'intérêt du public que le P.-C. continue à exploiter ces trains de voyageurs, pour la bonne raison qu'il ne serait pas facile de transporter 86,000 personnes par année par d'autres moyens. M. Clermont a souligné que les derniers chiffres présentés par le Chemin de fer, soit pour les neuf premiers mois de 1965, indiquent que le nombre des voyageurs a augmenté. Il a également mentionné qu'à cause de l'EXPO '67 qui sera tenue à Montréal beaucoup de gens ne pourront pas se rendre à Montréal par automobile et que, l'an prochain, le train sera plus utile que jamais.

M. Régimbal, député d'Argenteuil-Deux-Montagnes, a mentionné que le service de trains actuel permet d'effectuer des voyages d'aller et retour de Montréal ou d'Ottawa le même jour, tandis que si les trains 132 et 133 étaient supprimés, le reste du service mettrait les usagers du service de trains dans l'obligation de passer la nuit à Montréal ou à Ottawa, selon le cas. M. Régimbal a signalé en outre le mauvais état de la route et a affirmé que pour la majeure partie des usagers du train, la route est un piètre substitut du train. Il ne croit pas qu'il puisse y avoir suffisamment d'autobus pour recevoir le public voyageur

si les trains sont supprimés. M. Régimbal a déclaré que les chiffres relatifs aux trains 137 et 138 montrent que ces trains transportent un nombre de voyageurs inférieur à la moyenne et que si le P.-C. juge qu'il ne peut se permettre d'assurer ce service, l'intérêt public serait moins atteint par l'abandon de ces trains que par celle des trains quotidiens 132 et 133.

Mme Gravel, représentante de l'Association des parents-maîtres de Lachute a mentionné que des malades doivent se rendre à Montréal pour recevoir des soins spéciaux et que des enfants handicapés doivent aussi se rendre à Montréal trois fois par semaine. Elle a en outre signalé que des vieillards doivent se rendre à Montréal pour recevoir des traitements que les hôpitaux locaux ne peuvent leur donner et fait observer que des élèves qui étudient à Montréal rentrent chez-eux pour la fin de semaine. Mme Gravel a conseillé de reviser les horaires de façon à améliorer le service, plutôt que d'abandonner l'exploitation de ces trains.

M. Lafleur, maire du village de Brownsburg, a déclaré que des moyens de transport suffisants sont nécessaires au développement de l'industrie, surtout dans les régions éloignées des grands centres. Il a souligné que les chiffres fournis par le Chemin de fer indiquent que le nombre des voyageurs s'est accru depuis 1962 et il a demandé que le service de trains existant soit maintenu.

Le docteur Saindon, maire de la ville de Lachute, a dit que cette ville s'oppose à l'abandon du service assuré actuellement par les trains 137 et 138 et 132 et 133 entre Montréal et Ottawa. Il a mentionné que Lachute se trouve au centre d'une région qui compte 40,000 âmes et qui se doit d'être en communication constante avec Montréal et Ottawa. Il a affirmé que ce service public est indispensable du point de vue médical à cause des centres de traitements spécialisés qui se trouvent à Montréal et à Ottawa et afin de permettre aux étudiants de fréquenter les institutions spéciales de Montréal et d'Ottawa.

M. Whiteway, président de la Lachute Home and School Association, a présenté une pétition signalant qu'un bon service de trains est indispensable si l'on veut obtenir et conserver un bon personnel enseignant pour les écoles et permettre aux enfants de la région qui ne peuvent voyager par automobile de recevoir des soins médicaux spéciaux à Montréal. La pétition mentionnait également que l'EXPO '67 approche et qu'un service de trains est indispensable aux jeunes et aux plus âgés de la région. Il a ajouté que les routes d'accès et de sortie de Lachute ne sont pas des routes de premier ordre et qu'elles présentent des dangers et des inconvénients.

M. Laviolette, qui représente la Chambre régionale de commerce d'Argenteuil-Deux-Montagnes-Terrebonne, a proposé que le service de trains soit amélioré par la modification des horaires. Il a mentionné que les taux ont été réduits alors que les recettes n'étaient pas suffisantes pour couvrir les frais d'exploitation et qu'il semble que la Compagnie ait fait cette réduction afin de pouvoir

montrer un plus gros déficit. Il a dit qu'à sa connaissance aucun organisme public n'avait fait des démarches pour obtenir une diminution des taux et il s'est demandé pourquoi les taux avaient été réduits. M. Laviolette ne croit pas que la compagnie d'autobus puisse, à cause de l'état actuel de la route Montréal-Ottawa, remplacer le service actuellement assuré par les trains de voyageurs.

M. Jones, représentant du club Rotary Brownsburg-Lachute, a déclaré qu'actuellement, les trains ne passent pas à une heure qui permet aux hommes d'affaires de se rendre à Montréal pour y faire leurs affaires pendant le jour. Il croit que si l'horaire des trains était modifié, beaucoup plus d'hommes d'affaires se serviraient du train.

M. Richard Ayers a dit qu'il voyage régulièrement par les trains 132 et 133. Il utilise ces trains en moyenne deux fois par semaine et il croit que leur abandon serait déplorable. Il aime se servir du train plutôt que de son automobile parce qu'il trouve celle-ci inutile en ville.

M. Santini, président de la Chambre de commerce de Lachute, a affirmé que les trains sont utilisés par un nombre de plus en plus grand d'étudiants qui fréquentent les universités de Montréal et d'Ottawa et d'autres institutions. A son avis, pendant l'EXPO '67 et l'année du Centenaire, les gens vont préférer voyager par train parce que la ville de Montréal ne sera pas en mesure de faire face à l'affluence d'automobiles prévue à l'occasion de ces événements importants.

M. Lamarche, directeur de l'hôpital d'Argenteuil, a demandé que le service de trains de voyageurs soit maintenu vu qu'il est nécessaire pour les malades de Lachute qui doivent aller à Montréal régulièrement pour y subir des traitements spéciaux. Il a également mentionné que plusieurs de ces malades sont âgés ou ne sont pas en état de conduire une automobile et ont besoin d'un minimum de confort que les autres modes de transport ne sauraient leur assurer.

L'avocat du Chemin de fer, dans son plaidoyer, a affirmé qu'une seule question se pose dans la présente cause, à savoir: si les trains en question sont supprimés, les inconvénients occasionnés au public auront-ils plus d'importance que la perte que subira le Chemin de fer? M. Spence a soutenu qu'il n'existe aucune nécessité d'avoir le service direct de ce train entre Montréal et Ottawa, vu que Montréal et Ottawa ont un excédent de service, soit onze trains par jour dans les deux sens. Il a déclaré qu'à supposer qu'il existe un besoin quelconque de ce train, ce serait pour desservir les points intermédiaires de la rive nord, mais ces points auront encore un autre service quotidien de trains dans les deux sens. A son avis, le seul inconvénient occasionné au public sera d'avoir à voyager à une autre heure du jour et ceux qui insistent pour voyager à la même heure qu'auparavant pourront se servir de l'autobus.

En ce qui concerne les inconvénients occasionnés au public, l'avocat a déclaré qu'une déposition très importante avait été faite par M. Tittley, du Transport Provincial, qui a affirmé que sa compagnie est prête à transporter tous les voyageurs des trains 132 et 133 et 137 et 138 si ces trains sont supprimés, que les horaires de ses autobus étaient à peu près les mêmes que ceux des trains en question et que sa compagnie exploite un service doté du matériel le plus confortable.

M. Spence a soutenu que les états déposés en preuve au sujet des recettes et des dépenses ont été confirmés de la façon la plus complète et la plus minutieuse par les dépositions des témoins de la compagnie et qu'ils n'ont été infirmés en rien par le contre-interrogatoire subi par ces témoins. M. Spence a ajouté que, dans des causes antérieures, la Commission avait modifié certains des chiffres en relevant arbitrairement ceux des recettes et en abaissant ceux des frais, et il a soutenu que la Commission ne devrait pas redresser ainsi des chiffres qui ont été solidement établis et confirmés par des dépositions des témoins à l'audience.

Pour conclure, M. Spence a affirmé que le chiffre de \$42,600 constitue l'économie minimum que permettra de réaliser l'abandon de ces trains, que ce chiffre l'emporte de beaucoup sur les inconvénients que subira le public par suite de la réduction du service de voyageurs et que la Commission devrait approuver le projet présenté par la Compagnie de chemin de fer.

Conclusions

Le projet d'abandon du service des trains 132 et 133 et 137 et 138 a fait l'objet d'opposition de la part de toutes les municipalités, chambres de commerce et organismes publics qui se trouvent dans la subdivision de Lachute, de Montréal à Hull. Cette opposition a reçu l'appui de tous les députés qui représentent la population touchée par ce projet.

Les principales raisons de l'opposition à ce projet peuvent se résumer ainsi: le nombre des voyageurs, qui a augmenté en 1964 et en 1965, l'insuffisance de la route n° 8 et la difficulté de transporter par les autres modes de transport les 86,000 voyageurs que transportent actuellement les trains 132 et 133, l'impossibilité de se rendre à Montréal ou à Ottawa et d'en revenir le même jour si les trains 132 et 133 sont supprimés, le besoin du service de trains actuel pour les malades, les handicapés et les vieillards qui doivent se rendre à Montréal afin d'y recevoir des soins spéciaux que ne dispensent pas les hôpitaux locaux et pour les étudiants qui fréquentent des écoles spéciales ou les universités de Montréal ou d'Ottawa, et la nécessité d'un service suffisant de trains de voyageurs pendant l'année du Centenaire et l'EXPO '67.

A l'appui de son projet, le Chemin de fer prétend que l'exploitation de ce service lui cause une perte annuelle de \$42,000 et que très peu d'inconvénients

résulteraient de sa suppression vu que ses usagers pourraient voyager par autobus.

Je suis d'accord avec l'avocat du Chemin de fer lorsqu'il dit qu'une seule question se pose dans la présente cause, à savoir: "si les trains en question sont supprimés, les inconvénients occasionnés au public auront-ils plus d'importance que la perte que subira le Chemin de fer?" Ce sont là les principes observés dans le passé par la Commission dans les cas de ce genre.

Toutefois, je ne suis pas d'accord avec lui lorsqu'il soutient que "la Commission ne devrait pas redresser des chiffres qui ont été solidement établis et confirmés par les dépositions des témoins à l'audience". Le Chemin de fer a l'avantage d'avoir des témoins spécialistes pour présenter des chiffres qui sont obtenus parfois par des procédés très compliqués et je ne suis pas d'avis que ces chiffres doivent être acceptés simplement parce qu'aucune des parties opposantes ne possède les connaissances nécessaires pour les scruter efficacement. J'estime que la Commission a le devoir d'examiner les chiffres présentés et de faire des corrections, au besoin, de façon que ces chiffres représentent un tableau raisonnablement juste de la situation.

Les pièces 7 et 9 ont été présentées par la Compagnie pour montrer les recettes et frais variables estimatifs sur la base de l'exploitation actuelle pour l'ensemble du service de voyageurs des trains 131, 132, 133, 134, 137 et 138, ainsi que pour le service des trains 131 et 134 seulement, entre Montréal et Ottawa (rive nord). La différence entre le déficit annuel net du service actuel et celui que subirait le service projeté représente l'amélioration financière que la Compagnie prévoit dans le cas de l'abandon des trains 132 et 133 et 137 et 138.

Ces pièces figurent ci-après telles qu'elles ont été présentées par la Compagnie.

Recettes et frais variables estimatifs Trains 131, 132, 133, 134, 137, 138 entre Montréal et Ottawa (via rive nord) pendant la période de douze mois allant d'octobre 1964 à septembre 1965 inclusivement et recettes annuelles et frais variables estimatifs de l'exploitation projetée des trains 131 et 134 seulement entre Montréal et Ottawa (via rive nord)

Pièce n° 7

	Montant	
	Service actuel	Service projeté
Recettes brutes		
Prix de passage	\$ 362,716	\$175,309
Messageries	4,316	4,112
Total	\$ 367,032	\$179,421
Disons	\$ 367,000	\$179,400

Pièce n° 7 (suite)

Dépenses	Montant	
	Service actuel	Service projeté
Frais d'exploitation annuels estimatifs des trains de voyageurs	\$ 466,566	\$236,480
Compagnie de messageries	2,818	2,685
Total	\$ 469,384	\$239,165
Disons	469,400	\$239,200
Gains annuels nets (déficit)	\$(102,400)	\$(59,800)
Amélioration financière	<u>\$42,600</u>	

Pièce révisée n° 9

Poste de dépense	Montant	
	Service actuel	Service projeté
Combustible	\$ 31,253	\$ 15,143
Salaires des mécaniciens	39,765	18,939
Salaires du personnel de train	66,650	31,781
Employés de gare	18,386	18,386
Réparation des autorails	144,758	69,951
Réparation des locomotives	701	396
Frais de rotonde	214	121
Réparation des voitures de voyageurs	787	478
Autres frais de train	38,575	18,712
Frais variables d'entretien de la voie	10,192	4,958
Frais divers et communications	39,646	20,172
Installations communes (gare Union d'Ottawa)	18,375	8,917
Dépréciation du matériel	15,820	7,910
Coût de l'argent – autorails	33,606	16,803
– biens immeubles	7,838	3,813
Compagnies de messageries	2,818	2,685
Total	\$ 469,384	\$239,165
Disons	\$ 469,400	\$239,200
Gains annuels nets (déficit)	\$(102,400)	\$(59,800)
Amélioration financière	<u>\$42,600</u>	

Au sujet des recettes provenant des prix de passage tant du service actuel que du service projeté, le témoin de la Compagnie, M. A.E. Brown, a expliqué que ces chiffres étaient déterminés d'après le nombre des voyageurs effectivement transportés pendant l'année close le 30 septembre 1965, ce nombre étant multiplié par le revenu moyen par voyageur transporté obtenu par la compagnie, calculé sur la base des deux échantillons d'une semaine des recettes du service des voyageurs pour les semaines du 12 au 18 novembre 1964 et du 23 au 29 août 1965. Pour le service projeté, il n'avait été tenu aucun compte des recettes supplémentaires qui pourraient revenir aux trains 131 et 134, après l'abandon des trains 132 et 133 et 137 et 138.

En réponse à une question de M. Régimbal qui lui demandait si les voyageurs de banlieue avaient été compris dans le nombre réel de voyageurs transportés, M. Brown a répondu qu'ils l'étaient. Il a affirmé que les voyageurs transportés avaient été comptés pendant les deux semaines-témoins par les chefs de trains et par d'autres employés nommés séparément pour le faire et que les chiffres obtenus dans les deux cas concordaient. J'ai fait examiner par les analystes de la Commission les inscriptions originales de ces relevés et ces analystes ont confirmé que les voyageurs de banlieue qui utilisent les billets d'abonnement, ainsi que les voyageurs directs allant plus loin qu'Ottawa et Montréal, étaient compris. La compagnie estime que la petite quantité de messagerie actuellement transportée sur ces trains ne serait pas beaucoup touchée par l'abandon des trains 132 et 133 et 137 et 138.

M. Kenneth H. Brink, qui a témoigné au sujet du prix de revient pour la compagnie, a donné des explications en ce qui concerne les frais variables estimatifs de l'exploitation actuelle des trains 131, 132, 133, 134, 137 et 138, ainsi que de l'exploitation projetée des trains 131 et 134 seulement.

Après avoir fait faire une étude de ces frais dans les deux cas et après avoir effectué certains redressements pour les raisons données ci-après, j'accepterai, pour les fins du présent jugement, les chiffres suivants:

	Exploitation actuelle	Exploitation projetée
Combustible, salaires, réparations et autres dépenses de train	\$320,600	\$163,200
Frais variables d'entretien de la voie	5,000	2,500
Frais divers et communications	31,900	16,300
Installations communes (gare Union d'Ottawa)	18,300	8,900
Dépréciation du matériel	15,800	7,900
Compagnie de messageries	2,800	2,700
Total des frais	<u>\$394,400</u>	<u>\$201,500</u>

Des réductions ont été opérées sur le coût du combustible, des salaires, des réparations et des autres dépenses de train figurant à la pièce n° 9 pour certaines sommes qui, au dire de la compagnie, doivent couvrir les frais de surveillance et autres frais généraux associés relatifs au service, sommes qui avaient été obtenues par voie d'analyse de régression multiple. Je ne suis pas certain que les économies qui seraient réalisées du fait de l'abandon du service de voyageurs, soit dans sa forme actuelle, soit dans sa forme projetée, atteindraient ces sommes.

La partie variable des frais d'entretien de la voie que la compagnie prétend épargner dans la pièce n° 9 a également été calculée par voie d'analyse de régression multiple. Je n'estime pas que ces sommes (\$10,192 et \$4,958) seraient épargnées en entier. J'ai donc réduit en conséquence les chiffres estimatifs de la compagnie.

M. Brink a expliqué que les frais divers et de communications comprenaient les contributions de la compagnie à l'égard des pensions et de l'assurance-chômage, ainsi que la partie variable des frais de comptabilité, de communications et autres frais, qui seraient évitables à long terme. Bien qu'une certaine variabilité puisse être attribuée à ces dépenses, je ne suis pas convaincu que l'abandon du service de voyageurs à l'étude entraînerait des économies aussi considérables qu'on le prétend. J'ai donc fait certaines réductions.

Dans les causes antérieures, la Commission n'a pas reconnu le coût de l'argent comme un article de dépense variable bien qu'il en ait été tenu compte dans la détermination de l'amélioration financière, à un taux de 5 p. 100. J'appliquerais donc un taux de 5 p. 100 aux autorails et je considérerais le coût de l'argent comme étant de \$14,700 dans le cas de l'exploitation actuelle et de \$7,400 dans le cas de l'exploitation projetée des trains 131 et 134 seulement. Je ne crois pas cependant qu'en ce qui concerne les biens immeubles, la compagnie bénéficierait d'une amélioration financière. J'ai donc rejeté en entier le coût de l'argent pour la mise de fonds dans les biens immeubles.

Voici la nouvelle pièce 7, dans laquelle sont incorporées les corrections qui précèdent:

Pièce 7 (revision de la Commission)

Montant		
	Service actuel	Service projeté
Recettes brutes		
Prix de passage	\$362,716	\$175,309
Messageries	4,316	4,112
Total	\$367,032	\$179,421
Disons	\$367,000	\$179,400

(Pièce 7 (revision de la Commission) – suite)

Dépenses	Montant	
	Service actuel	Service projeté
Frais d'exploitation annuels estimatifs des trains de voyageurs	\$394,400	\$201,500
Compagnie de messageries	\$ 2,818	\$ 2,685
Total	\$397,218	\$204,185
Disons	\$397,200	\$204,200
Gains annuels nets (déficit)	\$(30,200)	\$(24,800)
Économies financières sur la base projetée	\$5,400	
Coût de l'argent (net)	\$7,300	
Amélioration financière sur la base projetée	<u>\$12,700</u>	

L'augmentation du nombre de voyageurs au cours des deux dernières années, l'insuffisance de la route n° 8 entre Montréal et Hull et la demande prévue pour le transport des voyageurs pendant l'année du Centenaire et l'EXPO '67, voilà vraiment autant de bonnes raisons de ne pas accepter le projet du Chemin de fer.

Je suis d'avis que, dans les conditions actuelles, les inconvénients occasionnés par l'abandon des trains de voyageurs 132 et 133 et 137 et 138 ont beaucoup plus d'importance que la perte que subirait le Chemin de fer.

En conséquence, la Compagnie de Chemin de fer du Pacifique-Canadien devra continuer à exploiter les trains 132 et 133 et 137 et 138 entre Montréal et Ottawa en passant pas la subdivision de Lachute.

(Signature) J.E. DUMONTIER

J'agrée

(Signature) JOHN M. WOODARD

OTTAWA, le 29 juin 1966.

ORDONNANCE N° 121238

MERCREDI LE 29 JUIN 1966

J.E. DUMONTIER

commissaire en chef suppléant

J.M. WOODARD

commissaire

RELATIVEMENT au projet de suppression des trains de voyageurs Nos 132-133 et Nos 137-138 de la compagnie de chemin de fer du Pacifique-Canadien, exploités entre Montréal et Ottawa, via Lachute.

Dossier 15938

VU QUE par lettre en date du 31 septembre 1964, la compagnie de chemin de fer du Pacifique-Canadien avisait la Commission que dû au fait que ses recettes étaient inférieures aux dépenses directes, elle abandonnerait à compter du 25 octobre 1964 le service quotidien assuré par les trains de voyageurs Nos 132 et 133 et le service assuré le samedi seulement par les trains de voyageurs Nos 137 et 138, entre Montréal et Ottawa via Lachute.

VU QU'en date du 9 octobre 1964, la Commission des Transports du Canada enjoignait à la compagnie de chemin de fer du Pacifique-Canadien de continuer à assurer le service quotidien des trains 132 et 133 et le service le samedi seulement des trains 137 et 138 tant qu'une audience publique n'aurait pas eu lieu pour déterminer si l'exploitation de ces trains devrait se poursuivre ou si la permission de l'abandonner devrait être accordée.

APRÈS audition relative à cette affaire aux séances de la Commission tenues à Lachute, P.Q. les 1^{er} et 2 février 1966, en présence des avocats de la compagnie de chemin de fer du Pacifique-Canadien, et autres représentants dont les noms apparaissent dans le Jugement et après lecture des pièces déposées—

IL EST PAR LA PRÉSENTE ORDONNÉ CE QUI SUIT:

La compagnie de chemin de fer du Pacifique-Canadien devra continuer l'exploitation des trains 132-133 et 137-138 entre Montréal et Ottawa, via Lachute.

Le Commissaire en chef suppléant
J.E. DUMONTIER.

Canada (The) Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the Canadian National Railways for authority to abandon operation of that portion of the Coboconk Subdivision between Woodville, mileage 12.55, and Lorneville, mileage 13.88, a distance of 5.43 miles, in the Province of Ontario;

AND

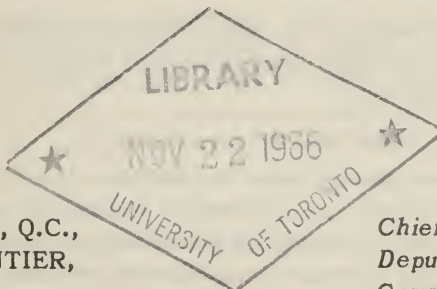
IN THE MATTER OF the application of the Canadian National Railways for authority to abandon operation of that portion of the Midland Subdivision between Lindsay and Beaverton East, a distance of 22.20 miles, in the Province of Ontario;

AND

IN THE MATTER OF the application of Canadian National Railways for authority to close and remove their railway station at Woodville, Ontario.

File Nos. 39310.138
 39310.121
 4205.1438

June 15, 1966



BEFORE:

ROD. KERR, Q.C.,
 J.E. DUMONTIER,
 A.S. KIRK,

Chief Commissioner.
 Deputy Chief Commissioner.
 Commissioner.

APPEARANCES:

H.J.G. PYE,
 JOHN STARR,
 JOHN CAMPBELL,
 HERBERT SIMPSON,

for Canadian National Railways.
 Reeve, Township of Mariposa.
 Reeve, Village of Woodville
 representing Victoria Fuels and
 Supplies, Woodville.
 representing M.J. Stoddart and
 Son Limited.
 Motel operator, Highway No. 12.
 Cannington farmer, in person.

C.S. STODDART,

HOWARD HANCOCK,
 PETER BROWN,

Heard at: Lindsay, Ontario on June 15, 1966.

ORAL JUDGMENT

THE CHIEF COMMISSIONER:

In respect of the right-of-way and what happens to it if the company abandons operation of the trackage, that matter has come before the Board a good many times, not only in recent years, but in years long past.

The Railway Act governs the situation so long as the railway remains a railway and that Act contains provisions for fencing and drainage and weed control along railways. A good many years ago a proposal was made to the Board as to fencing of the railway right-of-way once operation of the trackage was abandoned and a decision was given by the Honourable Hugh Guthrie, who was Chief Commissioner at that time, a decision reported in 46 Canadian Railway Cases at page 52. It will read part of that decision as follows:

"It is to be noted that the requirement for fencing is that the company shall erect and maintain fences upon the railway. Where abandonment of operation has been authorized and has taken place the right-of-way through which the railway is operated ceases to be used for railway purposes and is held by the company, not as part of its railway qua"

— that means "as" —

"railway company but in the same way as land is held by private individuals subject to any provincial or municipal laws in respect of fencing which may be in force in the particular district."

That is the end of the part of the judgment that I am quoting.

Railway companies also have power under the Railway Act to sell lands, to dispose of lands that have become not necessary for the purposes of the railway. So, if these applications are granted and the railway company acts upon them and abandons operation of the portions of railway which are the subject of the application, then although that right-of-way is still owned by the company it passes out of the jurisdiction of this Board. It is no longer a railway, according to the decision that I have quoted from, it is land owned by the company, the same as any other land owner would own land. It is no longer a railway. The company might have an office building on the main street of Lindsay or in the heart of the City of Toronto. It would be owned by the company but would not be a railway operated by the railway. Once this land ceases to be part of the railway it is no longer under our jurisdiction.

Consequently, it is not possible for the Board to impose any requirements on the company as to what it will do with the right-of-way after it ceases to operate the line. The company is free to sell it, to dispose of it to the adjacent landowners or to the county or province or to other parties. I just wish to make clear that once abandonment takes place the land is land owned by the company but it is no longer a railway that is subject to this Board. We cannot come back

56 B.T.C.

in two years' time or five years' time and order the company to put up fences or do anything else with respect to that particular portion of their land. But I would hope, of course, that the company will be as co-operative as is possible, in its own interests, with the authorities and the landowners to do what they can with this right-of-way. We realize that a right-of-way may become unsightly to a community, buildings may become dilapidated and an eyesore. We hope those things will not happen when the company gets leave under the Railway Act to abandon operation of the line.

All I can do at the moment is pass on to the company my hope that it will co-operate to see that the interests of the community are not harmed by what the company does with the property if the operation of the line is abandoned.

So far as the disposition of the applications are concerned, frequently we take these applications back to Ottawa, wait for the reporter to give us a transcript of the evidence that he has taken down in shorthand, but in those cases there usually is opposition to the application and that is not the case here, and we think that no useful purpose would be served in delaying our determination of the matter.

On the material that has been put before us, the evidence as to expenses and revenues, traffic on the line and all the other material considerations, highways and other things, and in view of the substantial success that the authorities have had in getting the company to modify its application so as to eliminate some of the trackage that it had included originally, we feel that the railway company, the C.N.R. has made out a sufficiently good case to justify the Board in granting the application, and we also think that on the evidence presented to us we would not be justified in requiring the company to continue to maintain and operate the portions of line which are the subject matter of their two applications. Coupled with that is the removal of the station agency at Woodville and upon what has been presented to us we are also satisfied that that application should be granted.

Now, we do not allow abandonments to take place immediately. We do allow some time in case parties want to appeal from our decision, and we shall have to discuss with the Canadian National some date to be fixed by the Board before which the line shall not be abandoned.

We would not allow abandonment to take place for at least one month and if perchance there are any parties who need a longer time for the operation of the line to continue we would be willing to hear what they have to say in that respect.

First perhaps I shall ask you, Mr. Pye, what you wish to say in respect of the date upon or after which abandonment shall be permitted?

MR. PYE: Well, Mr. Chief Commissioner, if it were possible to effect abandonment not later than August 1st, that would meet with out approval.

ORDER NO. 121205

**TUESDAY, THE 21ST DAY OF
JUNE, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of Canadian National Railways
for authority to abandon operation of
that portion of its Coboconk Subdi-
vision between Woodville, mileage
12.55, and Lorneville, mileage 13.88,
in the Province of Ontario:*

File No. 39310.138

and

*IN THE MATTER OF the applica-
tion of Canadian National Railways
for authority to abandon operation of
that portion of its Midland Subdi-
vision between Lindsay, mileage
2.50, and Beaverton East, mileage
24.70, in the Province of Ontario:*

File No. 39310.121

*IN THE MATTER OF the applica-
tion of Canadian National Railways
for authority to close and remove its
railway station at Woodville afore-
said:*

File No. 4205.1438

UPON hearing the said applications at Lindsay, Ontario, on June 15, 1966, in the presence of Counsel for Canadian National Railways, and representatives of the Township of Mariposa, the Village of Woodville and other parties, and pursuant to Judgment given orally at the hearings;

IT IS HEREBY ORDERED AS FOLLOWS:

1. Canadian National Railways is authorized to abandon operation of that portion of its Coboconk Subdivision between Woodville and Lorneville aforesaid, and that portion of its Midland Subdivision between Lindsay and Beaverton East aforesaid and to close and remove its railway station at Woodville aforesaid, but none of the said abandonments or the closing of the station at Woodville shall be effected prior to August 1, 1966.

2. Canadian National Railways shall give to the Board and to the parties that appeared at the hearing at least two weeks' prior notice of the date or dates on which the said abandonments of operation and closing of the station are to be effected, and shall further notify the Board as soon as they have been effected.

3. The Company shall also, at least two weeks before Woodville Station will be closed, post up in the station for the information of the public a notice of the date on which it will be closed. The Company is exempted from the provisions of General Order No. 0-2 in respect of that station.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120961

WEDNESDAY, THE 1ST DAY OF
JUNE, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways under Section 353 of the Railway Act, for approval of a limitation of liability, concerning the carriage of automobiles shipped in freight service on passenger transportation under what is termed "CAR-GO-RAIL PLAN":

File No. 39866

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Canadian National Railways are authorized to publish in Section 10 of its Special Passenger Tariff 1, CTC 153 concerning the carriage of automobiles shipped in freight service on passenger transportation under what is termed the "CAR-GO-RAIL PLAN" the following form of release limiting liability:

"In consideration of Canadian National Railways receiving the automobiles described and carrying same at special rate set forth in the tariff, the owner or lessee hereby expressly agrees that the Railway Company shall not be liable in respect or consequent upon the loss of or damage or delay to the said automobile, its parts, tools or accessories howsoever caused, for any amount in excess \$500.00, which sum shall be deemed to be the maximum value of the automobile and all parts, tools, and accessories thereof, unless a greater value is declared and extra charge paid at time of shipment, in accordance with the current tariff of the Railway Company."

"Furthermore, that the Railway Company shall not be liable to any extent in respect of or consequent upon the loss of or damage or delay to coats, rugs, luggage, or other articles or goods whatsoever in or on an automobile or whether such loss, damage, or delay is caused by, or results from the negligence of the Railway Company, its servants, or agents, or otherwise howsoever."

"Car-Go-Rail schedules are subject to change without notice. Although the Railway will endeavour to comply with the published schedules, times of departures and arrivals are not guaranteed, and it shall not be liable for

any loss, expense or damage, incurred or sustained by the owner (or lessee) as a result of delay of the automobile."

2. Order No. 111264, dated May 21st, 1963, is rescinded.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 120976

FRIDAY, THE 3RD DAY OF
JUNE, A.D. 1966.

J.M. WOODARD,
Commissioner.

A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian Freight Association, under the provisions of Part III of General Order No. T-1, for approval of Supplement No. 33 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, on file with the Board under file No. 49084.33:

UPON reading the submissions filed —

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 33 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, is approved.

(SGD) JOHN M. WOODARD,
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 121001

**WEDNESDAY, THE 8TH DAY OF
JUNE, A.D. 1966.**

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the joint
application of the National Capital
Commission and the Canadian Pacific
Railway Company for an Order author-
izing the Canadian Pacific Railway
Company to abandon a portion of the
Maniwaki Subdivision from mileage
0.0 to mileage 2.23, in the City of
Hull, in the Province of Quebec:*

File No. 39309.72

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Pacific Railway Company is authorized to abandon a portion of the Maniwaki Subdivision from mileage 0.0 to mileage 2.23, in the City of Hull, in the Province of Quebec.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121126

**FRIDAY, THE 17TH DAY OF
JUNE, A.D. 1966.**

J.M. WOODARD,
Commissioner.

W.R. IRWIN,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian National Rail-
ways for authority to abandon their
Hurdman Line from mileage 0.00
Ottawa Junction to the end of tracks,
Mann Avenue, in the City of Ottawa,
Province of Ontario:*

File No. 39310.94

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian National Railways are authorized to abandon their Hurdman Line from mileage 0.00 Ottawa Junction to the end of tracks, Mann Avenue, in the City of Ottawa, in the Province of Ontario.

(SGD) JOHN M. WOODARD,
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 121206

**THURSDAY, THE 23RD DAY OF
JUNE, A.D. 1966.**

ROD. KERR, Q.C.,
Chief Commissioner.

W.R. IRWIN,
Commissioner.

A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of The Coal Operators' Associa-
tion of Western Canada for suspen-
sion of proposed changes in demurrage
regulations on export traffic:*

File No. 1700.418

WHEREAS Order No. 120632, dated April 26, 1966, postponed the effective date of certain tariff items as listed therein, pending receipt of submissions of interested parties —

IT IS HEREBY ORDERED AS FOLLOWS:

The effective date of the following tariff items is postponed until July 27, 1966:

Agent G.H. Mitchell's Tariff No. 114-1, C.T.C. (F) 738 Item 400 on 29th revised page 135 and 7th Revised Page 135-A to Canadian National Railways Tariff C.R. 200, C.T.C. (F) E. 1694, Item 28 on 18th Revised Page 20 and 5th Revised Page 20A to Canadian Pacific Railway Company Tariff No. E3050, C.T.C. (F) No. E. 4126, Item 95 on 3rd Revised Page 32 to Dominion Atlantic Railway Company Tariff No. 131-A, C.T.C. No. 1198.

Item 175 on 3rd Revised Page 68 and 1st Revised Page 68-A to Quebec Central Railway Company Tariff No. 220, C.T.C. (F) No. 1105.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121207

THURSDAY, THE 23RD DAY OF
JUNE, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of Mr. Edwin E. Lindberg, Fort
Simpson, N.W.T., for a licence under
section 10 of the Transport Act:*

File No. 42076.58

IT IS HEREBY ORDERED AS FOLLOWS:

License No. C.T.C. (W.T.) 453 is issued to Mr. Edwin E. Lindberg, Fort Simpson, N.W.T. for the year 1966, licensing the following ships, namely:

<u>Vessel Name</u>	<u>Small Vessel Licence No.</u>	<u>Gross Tonnage</u>
M/V "Anna II"	2H-14350	20 (estimated)
Barge "L No. 2"	Not registered	69 tons

to transport goods by water on the Mackenzie River Watershed between Fort Providence, N.W.T., and Fort Simpson, N.W.T. only.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121239

WEDNESDAY, THE 29TH DAY OF
JUNE, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF amendments
to Canadian National Railways'
Tariff C.T.C. (F) No. E.3867 and
Canadian Pacific Railway Company's
C.T.C. No. E.5172, filed to become
effective January 2, 1961, applying
on bulk grain, carloads, for export;
AND IN THE MATTER OF Orders
of the Board -

No. 103860, dated February 23, 1961;
No. 104138, dated March 30, 1961;
No. 104942, dated July 3, 1961;
No. 106616, dated December 21, 1961;
No. 108242, dated June 28, 1962;
No. 109970, dated December 27, 1962;
No. 111531, dated June 20, 1963;
No. 112879, dated December 20, 1963;
No. 114659, dated June 9, 1964;
No. 116361, dated December 24, 1964;
No. 117848, dated June 25, 1965, and
No. 119390, dated December 21, 1965:

File No. 17112.49

WHEREAS Order in Council P.C. 1966-1149, dated the 21st day of June, 1966, further extends until December 31, 1966, the suspension of paragraph No. 2 of Order No. 103860 of the Board of Transport Commissioners for Canada dated February 23, 1961 -

IT IS HEREBY ORDERED AS FOLLOWS:

1. The said tariff amendments filed by the railways pursuant to the said Order No. 103860 are further suspended until December 31, 1966.

2. During such suspension the railways shall continue the "at-and-east" rates on bulk grain for export that were in effect on November 30, 1960.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, APRIL, 1966.

	<i>Accidents</i>	<i>Killed</i>	<i>Injured</i>
Railway Accidents	231	11	234
Level Crossing Accidents.....	28	8	34
	<u>259</u>	<u>19</u>	<u>268</u>

	<i>Killed</i>	<i>Injured</i>
Passengers.....	1	69
Employees	3	162
Others	15	37
	<u>19</u>	<u>268</u>

Of the 28 accidents at Highway Crossings, 18 occurred where standard railway crossing signs are located, 10 where additional forms of protection are in use, 17 after Sunrise and 11 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(* Denotes Order Printed in full)

- 120847 May 20 - Amending Order No. 113848 which authorized the City of Stratford, Ont. re reconstruct subway carrying Erie St. across and under C.N.R. mileage 0.58 Goderich Subd.
- 120848 May 20 - Authorizing the C.P.R. to remove the caretaker at Broderick, Sask. mileage 112.7 Outlook Subd.
- 120849 May 20 - Approving changes to automatic protection at crossing of highway, west of Liverpool, N.S. and C.N.R. mileage 3.95 Yarmouth Subd.
- 120850 May 20 - Authorizing the Sask. Dept. of Highways to construct south service road across C.N.R. mileage 111.53 Lewvan Subd. in the NE $\frac{1}{4}$ -35-16-20-W2M.
- 120851 May 20 - Authorizing the removal of the speed limitation at crossing of Alexandria Street and C.N.R. in A Ma Baie, P.Q. mileage 3.52 Montfort Subd.
- 120852 May 20 - Approving changes to automatic protection at the crossing of highway and C.N.R. in Port Mouton, N.S. mileage 12.42 Yarmouth Subd.
- 120853 May 20 - Assessing the cost of maintenance of the Access Bridge carrying Main Street across and over C.N.R. at Lakehead Harbour, in the City of Port Arthur, Ont.
- 120854 May 20 - Authorizing the removal of the speed limitation at crossing of Pond Street and C.N.R. in Sydney Mines, N.S. mileage 96.08 Sydney Subd.
- 120855 May 20 - Authorizing the Indian Affairs Branch of Dept. of Citizenship & Immigration to construct the highway across C.N.R. in the Broken Head Indian Reserve No. 4, Rural Mun. of St. Clements, Man. mileage 41.13 Pine Falls Subd.
- 120856 May 20 - Authorizing the C.N.R. to operate over private siding serving Brockville Chemicals Ltd. near Village of Maitland, Ont. near mileage 119.0 Kingston Subd.
- 120857 May 20 - Authorizing the Sask. Dept. of Highways to construct Highway No. 2 across and over C.N.R. in Rural Mun. of Moose Jaw No. 161, mileage 0.27 of R.C.A.F. Spur off mileage 83.77 Avonlea Subd.
- 120858 May 24 - Authorizing the County of Bruce to improve Frank Street where it crosses the C.N.R. in Town of Wiarton, Ont. mileage 9.86 Wiarton Subd.

- 120859 May 24 – Authorizing the Sask. Dept. of Highways to construct a connecting highway across C.N.R. in the City of Melville, Sask. mileage 0.55 Qu'Appelle Subd.
- 120860 May 24 – Authorizing the removal of the speed limitation at crossing of Highway No. 43 and C.P.R. mileage 39.42 Vanguard Subd. Sask.
- 120861 May 24 – Amending Order 116818 which authorized the C.P.R. to install automatic protection at the crossing of its railway and Essex County Road No. 17 at Elmstead, Ont. mileage 101.03 Windsor Subd.
- 120862 May 24 – Approving improvements to the crossing as constructed where Pleasant Valley Road crosses the C.N.R. at Brookfield, N.S. mileage 55.91 Bedford Subd. and approving changes in the automatic protection as completed at said crossing.
- *120863 May 20 – Authorizing the C.P.R. to abandon that portion of its Kingston Subd. between Sharbot Lake and Snow Road, a distance of 14.6 miles, Ont. (See page 975, 56 B.T.C.)
- 120864 May 24 – Authorizing the removal of the speed limitation at crossing of highway and C.N.R. first public crossing west of Lamont station, Alta. mileage 92.79 Vegreville Subd.
- 120865 May 24 – Authorizing the removal of the speed limitation at the crossing of C.N.R. and 50th St. in Vegreville, Alta. mileage 57.12 Vegreville Subd.
- 120866 May 24 – Approving tariffs filed by The Bell Telephone Co. of Canada.
- 120867 May 24 – Authorizing the removal of the speed limitation at the crossing of C.N.R. and highway at Valemont, B.C. mileage 74.22 Albreda Subd.
- 120868 May 24 – Dismissing application of C.P.R. for authority to remove the caretaker and the station building at West Monkton, Ont. mileage 75.1 Goderich Subd.
- 120869 May 25 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. at mileage 6.69 Camrose Subd., Alta.
- 120870 May 25 – Authorizing the removal of the speed limitation at the crossing of the highway and C.N.R. at Caledonia, Ont. mileage 14 Hagersville Subd.
- 120871 May 25 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Co. of Canada and Telephone du Nord de Quebec Limitee (Division de Val d'Or).

- 120872 May 25 - Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and Quebec-Telephone (Region de Kamouraska).
- 120873 May 25 - Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Quebec-Telephone (Div. de Labrador).
- 120874 May 25 - Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and Quebec-Telephone (Division de l'Ouest).
- 120875 May 25 - Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Telephone du Nord de Quebec Limitee (Division de Chibougamau).
- 120876 May 25 - Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Weedon, Inc.
- 120877 May 25 - Approving Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and Quebec-Telephone (Division de l'Est).
- 120878 May 25 - Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Rural de Ste-Christine.
- 120879 May 25 - Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Locale de Stratford.
- 120880 May 25 - Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Syndicat Coopertif de Telephone de Valcourt.
- 120881 May 25 - Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Co. of Canada and Telecommunications Richelieu Limitee (Div. de Daveluyville).
- 120882 May 25 - Authorizing the City of Montreal, P.Q. to temporarily divert Bridge Street across Canada Packers' siding at mileage 0.10 and Forfar Yard lead at mileage 0.04 of the C.N.R. in Montreal, P.Q.
- 120883 May 25 - Authorizing the C.P.R. to open its Branch Line approximately 5.37 miles in length, commencing at mileage 16.42 Wilkie Subd., Sask.

- 120884 May 25 – Authorizing the C.N.R. and C.P.R. to operate through the interlocking at the crossing of the C.P.R. at mileage 1.7 of the Branch Line serving The Consolidated Mining & Smelting Company of Canada Limited, and the C.N.R. at mileage 204.93 Watrous Subd., Sask.
- 120885 May 26 – Authorizing the C.P.R. to remove the caretaker and replace the station building by a smaller structure at Neville, Sask.
- 120886 May 26 – Amending Order No. 120751 which limited the speed of trains of The Chesapeake & Ohio Railway Company to 25 m.p.h. along Stewart Street in the Town of Kingsville, Ont. mileage 30.10 Canada No. 1 Subd.
- 120887 May 26 – Approving changes in the automatic protection at crossing of Steeles Avenue and the C.N.R., west of Halwest, Ont. mileage 11.80 Halton Subd.
- 120888 May 26 – Limiting the speed of trains to 40 m.p.h. over the C.P.R. crossing at 50th Avenue, in Wetaskiwin, Alta. mileage 57.01 Leduc Subd.
- 120889 May 27 – Amending Order 116587 which authorized the C.N.R. to install automatic protection at the crossing of their railway and John Street in Aylmer, Ont. mileage 108.39 Cayuga Subd.
- 120890 May 30 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone de Contrecoeur Limitee.
- 120891 May 30 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Co. of Canada and La Compagnie de Telephone Notre Dame des Bois.
- 120892 May 30 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone St. Georges de Windsor.
- 120893 May 30 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Woburn.
- 120894 May 30 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone St. Rosaire Limitee.
- 120895 May 30 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St. Paul de Chester.
- 120896 May 30 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Co. of Canada and La Compagnie de Telephone Wotton.

- 120897 May 30 – Extending the time limit required to install automatic protection at the crossing of The T.H. & B. Railway and Primrose Avenue, City of Hamilton, Ont. mileage 0.99 Belt Line Subd.
- 120898 May 30 – Amending Order No. 120430, which authorized the Highways Dept. of the Province of Manitoba to construct Provincial Trunk Highway No. 1 West Portage By-Pass across the C.N.R. mileage 2.20 Pleasant Point Subd., in the Parish of Portage la Prairie.
- 120899 May 30 – Approving Supplement No. 9 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Arpin.
- 120900 May 30 – Authorizing the C.N.R. to remove the caretaker and retire the station building at Alderdale, Ont. mileage 42.7 Alderdale Subd.
- 120901 May 30 – Rescinding authority granted Shell Oil Canada Limited to locate their facilities for handling and storage of flammable liquids formerly operated by Canadian Oil Companies Ltd. at Sillery, P.Q. near C.N.R.
- 120902 May 30 – Rescinding authority granted Canadian Oil Companies Limited to locate their handling and storage facilities of flammable liquids near the C.N.R. at Sherbrooke, P.Q.
- 120903 May 30 – Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and The Pontiac Rural Telephone Company Limited.
- 120904 May 30 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Campbell's Bay Rural Telephone Company Limited.
- 120905 May 30 – Dismissing the application of C.P.R. for authority to remove the caretaker and the station building at Jasper, Ont. mileage 6.7 Brockville Subd.
- 120906 May 30 – Rescinding authority granted Shell Oil Company of Canada Limited to locate the handling and storage of flammable liquids facilities near C.P.R. at Kamloops, B.C., Shuswap Subd.
- 120907 May 30 – Requiring the Algoma Central Railway to install and maintain protection at the crossing of Township Road, and Algoma Central Railway mileage 31.42 Soo Subd. Village of Searchmont, Ont.
- 120908 May 30 – Approving Supplement No. 6 of Traffic Agreement between The Bell Telephone Company of Canada and Telecommunications Richelieu Limitee (Division de Sorel).

- 120909 May 30 – Approving Supplement No. 10 to Traffic Agreement between The Bell Telephone Company of Canada and Telecommunications Richelieu Limitee.
- 120910 May 30 – Amending Order No. 115674 which authorized the C.P.R. to install automatic protection at the crossing of its railway and Highway No. 28 in Welsford, N.B. mileage 24.00 Saint John Subd.
- 120911 May 30 – Approving changes in automatic protection at crossing of C.N.R. and Highway 609 at Quibell, Ont. mileage 74.65 Redditt Subd.
- 120912 May 30 – Requiring the City of Sault Ste. Marie, Ont. to install protection at the crossing of C.P.R. and Shannon Road, mile 129.03 Thessalon Subd., Ont.
- 120913 May 30 – Amending Order No. 120593 which authorized the City of Guelph, Ont. to reconstruct Victoria Road across the C.N.R. mileage 47.60 Guelph Subd.
- 120914 May 30 – Authorizing the C.N.R. to operate over the track serving Atlas Steels Limited which commences at mileage 42.38 Sorel Subd. in the Town of Tracy, P.Q. and crossing Highway No. 3 at chainage 70 + 97 of said track.
- 120915 May 30 – Authorizing the Municipality of the Township of Armour to reconstruct Township Road across C.N.R. District of Parry Sound, Ont. mileage 166.97 Newmarket Subd.
- 120916 May 30 – Authorizing the C.N.R. to install automatic protection at crossing of 4th Range Road East, and their railway in the Parish of St. Andre d'Acton, P.Q. mileage 20.27 St. Hyacinthe Subd.
- 120917 May 30 – Authorizing The Bell Telephone Company of Canada to lay, use and maintain a telephone cable under and along the C.N.R. in the station yard at or near mileage 59.01 Dundas Subd. in Ingersoll, Ont.
- 120918 May 30 – Authorizing the Townships of Salter, May and Harrow, Ont. to improve Township Road across C.P.R., Township of Victoria, mileage 15.97 Thessalon Subd.
- 120919 May 30 – Authorizing the C.P.R. to install protection at the crossing of its railway and Farm Point Road in Township of Hull, P.Q. mileage 16.08 Maniwaki Subd.
- 120920 May 30 – Authorizing the C.N.R. to operate under overhead bridge carrying Trans-Canada Highway across and over their right

of way and track near Bishop's Falls, Nfld. mileage 269.6 Bishop's Falls Subd.

- 120921 May 30 - Authorizing the Quebec Department of Roads to widen Macdonald Mine Road which crosses C.N.R. in Township of Rouyn, County of Noranda, P.Q. mileage 42.20 Rouyn Subd.
- 120922 May 30 - Authorizing The Corporation of the City of Penticton, B.C. to construct Government Street across the C.P.R. mileage 132.62 Carmi Subd.
- 120923 May 30 - Requiring the C.N.R. to install automatic protection at crossing of their railway and the highway in Maccan, N.S. mileage 68.65 Springhill Subd.
- 120924 May 30 - Requiring the C.N.R. to install automatic protection at the crossing of their railway and Prince Edward County Road No. 12, in Bloomfield, Ont. mileage 4.15 Picton Subd.
- 120925 May 30 - Requiring the C.N.R. to install protection at the crossing of their railway and St. George's-Stephenville Road, Nfld. mileage 456.58 Port aux Basques Subd.
- 120926 May 30 - Rescinding Order No. 80919 which authorized the location of proposed storage and handling facilities of flammable liquids of the Department of Public Works B.C. at Tranquille, B.C.
- 120927 May 30 - Authorizing the Quebec Department of Roads to construct a retaining wall on each side of the C.N.R. in Montreal, P.Q. from mileage 4.43 to mileage 5.80 Montreal Subd.
- 120928 May 30 - Requiring the C.N.R. to install automatic protection at the crossing of their railway and Road No. 805 in the Township of Dana, Ont. mileage 106.04 Alderdale Subd.
- 120929 May 30 - Requiring the C.N.R. to install automatic protection at crossing of their railway and Chemin des Fourches in St. Cuthbert, P.Q. mileage 86.92 Joliette Subd.
- 120930 May 30 - Approving revised plan of a proposed track connection commencing at mileage 116.48 Lachute Subd. and ending at mileage 2.24 Maniwaki Subd. of the C.P.R. to be constructed by the N.C.C. in the City of Hull, P.Q. and authorizing the construction of the track connection across Deveau Street.
- *120931 May 30 - Authorizing the C.N.R. to temporarily close certain agency stations in the Province of Alberta. (See page 988, 56 B.T.C.)
- 120932 May 30 - Amending Order No. 114193 which authorized installation of automatic protection at the crossing of the C.N.R. and George Avenue in Windsor, Ont. mileage 104.49 Chatham Subd.

- 120933 May 30 – Approving C.N.R. plan, profile and book of reference showing a deviation of their Avonlea Subd. from mileage 84.10 to mileage 86.10 in Rural Municipality of Moose Jaw No. 161, Sask.
- 120934 May 31 – Rescinding approval of location of handling and storage of flammable liquids facilities of Supertest Petroleum, Corp. near tracks of C.P.R. at Cap de la Madeleine, P.Q.
- 120935 May 31 – Authorizing the removal of the caretaker and station building at Mount Uniacke, N.S. mileage 12.8 Halifax Subd. C.P.R.
- 120936 May 31 – Rescinding the location of flammable liquid bulk storage facilities of Champlain Oil Products Ltd. near C.N.R. at Iberville, P.Q.
- 120937 May 31 – Authorizing the C.P.R. to operate over the siding serving Liquid Carbonic Canadian Corp'n. Ltd. and across unopened Industrial Drive, in Rural Municipality of Sherwood No. 159, Sask.
- 120938 May 31 – Authorizing the C.N.R. to make changes to their signals on their Yard Lead at McArthur Junction in St. Boniface, Man.
- 120939 May 31 – Amending Order 117035 which authorized the C.N.R. to install automatic protection at their crossing and Front Street in Sarnia, Ont. mileage 2.01 Point Edward Spur and mileage 0.07 Elevator Spur.
- 120940 May 31 – Authorizing the County of Lincoln, Ontario to construct a subway eliminating existing crossing, to carry County Road No. 22 across and under C.N.R. at mileage 18.93 Grimsby Subd.
- 120941 May 31 – Requiring the C.N.R. to install improved protection at crossing of their railway and the highway at Belmont, N.S. mileage 7.50 Springhill Subd.
- 120942 May 31 – Authorizing the C.N.R. to construct London Street at the crossing of their railway in Prince George, B.C. mileage 145.43 Fraser Subd., and to close the crossing of Ottawa Street at mileage 145.66.
- 120943 May 31 – Approving C.P.R. bridge as constructed at mileage 87.21 Galt Subd., Ont. and authorizing the railway to operate over the relocated line between mileages 82.56 and 87.38 Galt Subd., near Woodstock, Ont.
- 120944 May 31 – Approving location of proposed liquefied petroleum gas bulk storage and transfer facilities of Gaz Propane Pinó (Canadian Propane Consolidated Ltd.) at Ste. Foy, P.Q. near mileage 3.6 Bridge Subd. C.N.R.

- 120945 May 31 - Requiring the C.N.R. to install automatic protection at the crossing of their railway and Memorial Drive, Town of Gander, Nfld. mileage 215.24 Clarenville Subd.
- 120946 May 31 - Requiring the C.P.R. to install automatic protection at the crossing of its railway and Old Highway No. 17 at White Fish, Ont. mileage 18.23 Webbwood Subd.
- 120947 May 31 - Requiring the C.P.R. to install automatic protection at the crossing of its railway and Frontenac Street in Sault Ste. Marie, Ont. mileage 126.32 Thessalon Subd.
- 120948 May 31 - Authorizing the removal of the speed limitation at the crossing of the highway and C.N.R. at Warspite, Alta. mileage 57.12 Coronado Subd.
- 120949 May 31 - Authorizing the C.N.R. to open their industrial spur to serve Duval Potash Corp. commencing at mileage 196.43 Watrous Subd. and a siding commencing at chainage 27 + 00 of said spur near Farley, Sask.
- 120950 May 31 - Authorizing the Ontario Department of Highways to construct a subway across and under the T.H. & B. Railway Co. east of Stroud Road, in Hamilton, Ont. mileage 40.0 Waterford Subd. and authorizing the T.H. & B. Railway to construct a temporary track diversion to permit construction of said subway.
- 120951 May 31 - Authorizing the C.N.R. to operate on the 15-bent ballast deck pile trestle at mileage 52.7 Okanagan Subd., B.C.
- 120952 May 31 - Authorizing the C.N.R. to operate under the farm road overhead bridge at Tillsonburg, Ont. mileage 95.26 Cayuga Subd.
- 120953 June 1 - Rescinding authority of Order 115347 which authorized the Department of Public Works of New Brunswick to construct Highway No. 2 across the C.N.R. at mileage 105.18 St. Quentin Subd. and authorizing the C.N.R. to install automatic protection at said crossing.
- 120954 June 1 - Amending Order 117489 which authorized the Alberta Department of Highways to widen Highway No. 527C at C.N.R. crossing mileage 87.60 Edson Subd. and authorized the C.N.R. to relocate existing reflectorized crossing signs at said crossing.
- 120955 June 1 - Exempting the C.N.R. from the application of clauses (g) and (h) of paragraph numbered two of Order 117866 and to make signal changes on their Edson Subd. between mileage 197.9 and 199.4, Province of Alta.

- 120956 June 1 – Approving C.N.R. changes to automatic protection at the crossing of their railway and Canal Range Road in St. Bruno de Montarville, P.Q. mileage 63.81 St. Hyacinthe Subd.
- 120957 June 1 – Approving the C.N.R. industrial track as constructed along Pruneau Avenue across intersections of "D" Street and Bechard Avenue, City of Quebec West, at mileage 3.09 Lairet Subd.
- 120958 June 1 – Authorizing the C.P.R. to operate over private trackage serving Consolidated Mining and Smelting Company of Canada Limited, commencing at mileage 5.37 of branch line, the head block located at mileage 16.42 Wilkie Subd. in Rural Municipality of Vanscoy, Sask.
- 120959 June 1 – Authorizing the C.N.R. to relocate the automatic protection at the crossing of their railway and the highway in Gowanstown, Ontario, mileage 31.06 Newton Subd.
- 120960 June 1 – Authorizing The KVP Company Ltd. to construct a pipe utility bridge to carry pipelines across and over the C.P.R. at Espanola, Ont. mileage 1.43 Little Current Subd.
- *120961 June 1 – Authorizing the C.N.R. to publish a limitation of liability re carriage of automobiles shipped in freight service on passenger transportation under "CAR-GO-RAIL PLAN" (See page 1049, 56 B.T.C.)
- 120962 June 1 – Approving overhead and side clearances on siding serving Smithers Planer Co. Ltd. at Smithers, B.C. mileage 0.57 Bulkley Subd. C.N.R.
- 120963 June 1 – Authorizing the location of flammable liquid bulk storage facilities of Imperial Oil Limited at Turtleford, Sask. near mileage 55.7 Turtleford Subd. C.N.R.
- 120964 June 2 – Authorizing the Township of North York Ont. to construct an overhead bridge carrying York Mills Road across and over the C.N.R. mileage 11.20 Bala Subd.
- 120965 June 2 – Authorizing the National Capital Commission to construct an overhead bridge carrying Gladstone Ave. across and over the C.P.R. at Ottawa, Ont. mileage 0.64 Prescott Subd.
- 120966 June 2 – Authorizing the Ottawa Gas (Consumers' Gas Co.) to construct, maintain and operate low pressure natural gas steel pipe line across and over the C.P.R. at Ottawa, Ont. mileage 0.64 Prescott Subd.

- 120967 June 2 - Authorizing the removal of the speed limitation at the crossing of the Chesapeake & Ohio Railway Co. and Highway No. 98 at Blenheim, Ont. mileage 8.65 No. 2 Subd.
- 120968 June 2 - Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Keil Drive at Chathan, Ont. mileage 65.82 Windsor Subd.
- 120969 June 2 - Authorizing the removal of the speed limitation at the crossing of the highway and C.P.R. at Ross, P.Q. mileage 41.63 Megantic Subd.
- 120970 June 2 - Approving the overhead clearance on the siding serving Armstrong Saw Mill Limited at Armstrong, B.C. mileage 31.7 Okanagan Subd. C.P.R.
- 120971 June 2 - Approving tariffs filed by The Bell Telephone Company of Canada.
- 120972 June 2 - Authorizing the C.N.R. to operate on the subway structure carrying their tracks across and over Highway No. 53, Township of East Oxford, Ont. mileage 44.9 Dundas Subd.
- 120973 June 3 - Approving location of proposed additional flammable liquid bulk storage and transfer facilities of Landis Co-operative at Landis, Sask. near mileage 22.9 Wainwright East Subd. C.N.R.
- 120974 June 3 - Approving location for storage of liquid Caustic Soda (Sodium Hydroxide) in tank cars on siding at Campbellton, N.B. mileage 1.11 Mont-Joli Subd. C.N.R.
- 120975 June 3 - Approving Supplements to tariffs filed by the C.N.R. under sections 3 & 8 of M.F.R.A.
- * 120976 June 3 - Approving Supplement No. 33 to Canadian Freight Classification No. 21 (See page 1051, 56 B.T.C.)
- 120977 June 6 - Requiring the Chesapeake & Ohio Railway Company to relocate the crossing of its railway and the highway at mileage 0.80 No. 2 Subd. Ont.
- 120978 June 6 - Amending Order No. 116957 which authorized the C.P.R. to mark signboards with reflective material at certain highway crossings of its railway.
- 120979 June 6 - Approving location of flammable liquid bulk storage and transfer facilities of Imperial Oil Limited at Estonia, Sask. near mileage 10.0 Mantario Subd. C.N.R.
- 120980 June 6 - Authorizing the C.N.R. to operate over siding serving the Ford Motor Co. crossing Highway No. 122 by means of a bridge in Town of Oakville, Ont. near mileage 19.81 Oakville Subd.

- 120981 June 6 – Approving Appendix “A” to Traffic Agreement between The Bell Telephone Co. of Canada and Quebec-Telephone (Div. de L’Est).
- 120982 June 6 – Approving Appendix “A” to Traffic Agreement between The Bell Telephone Co. of Canada and Quebec-Telephone (Region de Kamouraska).
- 120983 June 6 – Authorizing the Quebec Department of Roads to improve Senneterre-Chibougamau Road at crossing of C.N.R. in Township of Laas, P.Q. mileage 43.52 Kiask Falls Subd.
- 120984 June 6 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Chemin Haut de la Riviere Montreal, Mun. of St. Joseph de Chambly, P.Q. mileage 46.23 Granby Subd.
- 120985 June 6 – Approving C.N.R. plan, profile and book of reference showing a deviation of its Emerson Subd. from mileage 6.99 to mileage 9.27, Man.
- 120986 June 6 – Authorizing the C.N.R. to construct a tunnel and approaches thereto on portion of proposed new railway of Vancouver Terminal Project between station 15 + 30 and 135 + 50, in Mun. Dist. of Burnaby and City of Vancouver, B.C.
- 120987 June 6 – Authorizing the Highways Department of Manitoba to construct Provincial Road No. 397 across C.N.R. mileage 182.37 Sherridon Subd., Man. and to close existing crossing at mileage 182.38 Sherridon Subd.
- 120988 June 6 – Authorizing the Quebec Department of Roads to install protection at the crossing of C.N.R. and De Salaberry St. Town of Chambly, P.Q. mileage 45.32 Granby Subd.
- 120989 June 6 – Approving location of six proposed liquefied petroleum gas switch heater bulk storage and transfer facilities of C.P.R. on Brooks Subd., Alta.
- 120990 June 6 – Authorizing the C.N.R. to operate on the bridge on siding headblock of which is at mileage 14.74 Lumby Subd., B.C.
- 120991 June 6 – Requiring the C.N.R. to protect the crossing of their railway and Hickmore Street, City of St. Laurent, P.Q. mileage 1.07 Côte de Liesse Spur.
- 120992 June 6 – Authorizing the City of Regina, Sask. to construct Toronto Street across C.N.R. at mileage 0.17 of the Saskatchewan Federated Co-op Lead off mileage 92.77 Qu’appelle Subd.
- 120993 June 6 – Approving C.P.R. clearances on siding serving Boundary Sawmills Limited near Midway, B.C. at mileage 1.6 Carmi Subd.

- 120994 June 6 – Authorizing the Township of Pickering, Ont. to widen Greenwood Road across C.P.R. at mileage 184.95 Belleville Subd.
- 120995 June 6 – Requiring the C.N.R. to install protection at the crossing of their railway and Chemin des Vingt in Town of St. Bruno de Montarville, P.Q. mileage 60.56 St. Hyacinthe Subd.
- 120996 June 7 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and Dinosaur Trail near Drumheller, Alta. mileage 49.86 Drumheller Subd.
- 120997 June 7 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.P.R. at Vaudreuil, P.Q. mileage 19.13 Winchester Subd.
- 120998 June 8 – Authorizing the City of St. Thomas, Ont. to construct Edward Street across the C.P.R. mileage 32.15 St. Thomas Subd.
- 120999 June 8 – Approving Appendix "A" to Traffic Agreement between The Bell Telephone Company of Canada and Telephone du Nord de Quebec Limitée (Division de Val d'Or).
- 121000 June 8 – Authorizing the C.P.R. to remove the caretaker at Streamstown, Alta. mileage 12.4 Willingdon Subd.
- *121001 June 8 – Authorizing the C.P.R. to abandon a portion of the Maniwaki Subd. from mileage 0.0 to 2.23 City of Hull, P.Q. (See page 1052, 56 B.T.C.)
- 121002 June 8 – Approving location of proposed additional flammable liquid bulk storage and transfer facilities of Pioneer Co-Operative Assoc. Limited at Kyle, Sask. near mileage 37.9 Matador Subd. C.P.R.
- 121003 June 8 – Authorizing the C.N.R. to reconstruct the bridge at mileage 78.2 Oak Point Subd. near Deerhorn, Man.
- 121004 June 8 – Approving Ottawa Gas 8.625 inch steel gas pipe line as constructed under the C.P.R. on Innes Road in City of Ottawa, Ont. at mileage 83.62 Montreal and Ottawa Subd.
- 121005 June 9 – Approving change in rate grouping and filing of tariffs of the New Richmond Exchange of the Bonaventure and Gaspé Telephone Company Limited.
- 121006 June 9 – Approving the relocation and existing flammable liquid bulk storage and transfer facilities of Imperial Oil Ltd. at Crane Valley, Sask. near mileage 38.5 Amulet Subd. C.N.R.
- 121007 June 9 – Limiting the speed of C.P.R. trains to 15 m.p.h. at the crossing of its railway and Pitt River Road, B.C. mileage 1.52 Westminster Subd.

- 121008 June 9 – Approving Revised Appendix “A” and Supplement No. 8 to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Township of Tuckersmith.
- 121009 June 9 – Authorizing the City of Niagara Falls, Ontario, to improve the north approach of Clifton Hill Avenue where it crosses the N.Y.C.R. at mileage 1.67 N.F. Main Line Subd.
- 121010 June 9 – Assessing the cost of maintenance and operation of the protection at the crossing of C.N.R. and Main Street in the Town of Grandview, Man. mileage 29.47 Togo Subd., equally on the Railways and the Town.
- 121011 June 9 – Approving C.P.R. plan showing changes to the automatic protection at its crossing and Highway No. 50 in Rural Mun. of Westbourne, Man. mileage 21.25 Minnedosa Subd.
- 121012 June 9 – Approving C.P.R. plan showing changes to the automatic protection at the crossing of its railway and Smith Lake Road near Cranbrook, B.C. mileage 1.30 Nelson Subd.
- 121013 June 9 – Approving C.N.R. plan showing changes in automatic protection at their crossing and Marien Avenue in Montreal East, P.Q. mileage 3.36 Longue Pointe Subd.
- 121014 June 9 – Authorizing the Rural Municipality of Wheatlands No. 163 Sask. to widen and improve the Municipal Road across the C.P.R. east of Parkbeg, Sask. mileage 34.5 Swift Current Subd.
- 121015 June 9 – Approving changes in rate grouping of certain telephone exchanges of the British Columbia Telephone Company.
- 121016 June 9 – Approving changes to C.N.R. automatic protection at the crossing of their railway and Port Saxon Road, in Port Clyde, N.S. mileage 75.68 Yarmouth Subd.
- 121017 June 9 – Authorizing the C.P.R. to construct an additional service track across North Queen Street, in Township of Etobicoke, Ont. at mileage 11.42 Galt Subd.
- 121018 June 9 – Authorizing Mr. V. Bruce Hamilton to construct two 8 inch drainage pipe lines across and under the C.N.R. in Municipal Parish of St. Malachie d’Ormstown, P.Q. in the vicinity of mileage 51.2 Massena Subd.
- 121019 June 9 – Approving C.N.R. plan showing changes to the automatic protection at crossing of their railway and the highway at Summerville Beach, N.S. mileage 10.31 Yarmouth Subd.

- 121020 June 9 – Approving C.N.R. plan showing changes to the automatic protection at crossing of their railway and the highway (Port Clyde Crossing) in Port LaTour, N.S. mileage 76.00 Yarmouth Subd.
- 121021 June 9 – Approving the C.N.R. plan showing changes to the automatic protection at crossing of their railway and Landsdowne Avenue in Callander, Ont. mileage 219.65 Newmarket Subd.
- 121022 June 9 – Approving supplements to tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 121023 June 9 – Approving C.N.R. plan showing changes to the automatic protection at crossing of their railway and Midland Avenue at Scarborough, Ont. mileage 324.98 Oshawa Subd.
- 121024 June 9 – Approving changes to automatic protection at the crossing of the C.N.R. and P.T. Highway No. 10, in Westray, Man., mileage 67.66 Turnberry Subd.
- 121025 June 9 – Authorizing the C.N.R. to operate their engines, cars and trains over the siding serving Frolek Sawmills Limited, which crosses Halston Avenue, in the Town of North Kamloops, B.C. at mileage 0.07 of said siding, which commences at mileage 1.52 Ashcroft Subd.
- 121026 June 9 – Authorizing the City of Edmonton to reconstruct 137th Avenue where it crosses the tracks of the Northern Alberta Railways Company, in the City of Edmonton, Alberta, mileage 1.25 Edmonton Subd.
- 121027 June 9 – Approving C.N.R. changes to the automatic protection at the crossing of their railway and Broadway Avenue in the Town of Montreal East, P.Q. mileage 1.19 Dobell Spur off mileage 3.51 Longue Pointe Subd.
- 121028 June 9 – Approving location of proposed additional flammable liquid facilities of Shell Canada Limited at Winkler, Manitoba, near mileage 72.1 La Riviere Subd., C.P.R.
- 121029 June 9 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Poirier Street at Danville, P.Q. mileage 46.60 Danville Subd.
- 121030 June 9 – Authorizing the C.N.R. to temporarily close certain agency stations in Ont. during annual vacation of agent.
- 121031 June 10 – Requiring the C.N.R. to install protection at the crossing of their railway and the highway at mileage 1.24 Maynooth Subd., Ont.

- 121032 June 10 – Requiring the Chesapeake and Ohio Railway Company to install protection at the crossing of its railway and the highway at mileage 4.80 No. 2 Subd. Ont.
- 121033 June 10 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and the public road near MacKinnon Harbour, County of Victoria, N.S. mileage 52.08 Sydney Subd.
- 121034 June 10 – Authorizing the Redditt Statute Labour Board to widen the highway at the crossing of the C.N.R. in the Village of Redditt Ont., mileage 122.9 Redditt Subd.
- 121035 June 10 – Requiring the C.P.R. to relocate the existing reflectorized crossing signs from mileage 26.33 Winchester Subd., P.Q. to a new location at mileage 6.32 Waltham Subd.
- 121036 June 10 – Requiring the C.P.R. to relocate existing crossing at mileage 59.66 Brooks Subd., Alta. to another crossing of its railway and the highway at mileage 0.77 Medicine Hat Industrial Spur which commences at mileage 146.3 Maple Creek Subd.
- 121037 June 10 – Requiring the C.N.R. to install protection at the crossing of their railway and Chemin Cote Sud Ruisseau Vacher in St. Marie Salome, P.Q. at mileage 108.89 Joliette Subd.
- 121038 June 10 – Requiring the C.N.R. to improve the protection at the crossing of their railway and County Road No. 26 at Beamsville, Ont. mileage 23.21 Grimsby Subd.
- 121039 June 10 – Authorizing the Highways Department of the Province of Manitoba to reconstruct Provincial Trunk Highway No. 25 at the crossing of the C.N.R. in the Town of Rivers, Man. at mileage 0.17 of the Gravel Pit Spur which commences at mileage 142.59 Rivers Subd.
- 121040 June 10 – Approving clearances on the siding serving Sinclair Spruce Lumber Co. Ltd. near Dewey, B.C. mileage 90.72 Fraser Subd. C.N.R.
- 121041 June 10 – Allocating the cost of construction and maintenance of the overhead bridge to carry Renfrew Street across and over the tracks of the C.P.R. in the City of Vancouver, B.C. mileage 125.65 Cascade Subd.
- 121042 June 10 – Authorizing the Quebec Department of Roads to widen and improve Third Range Road at crossing of the C.N.R. in the Municipality of the Parish of Ste. Clothilde, County of Chateauguay, P.Q. at mileage 16.16 Valleyfield Subd.

- 121043 June 10 – Authorizing the Township of Orillia, Ont. to reconstruct Township Road at crossing of the C.N.R. between Concs. 1 and 2 Lot 16, Township of South Orillia, at mileage 82.13 Newmarket Subd.
- 121044 June 10 – Authorizing the City of Hull, P.Q. to connect and synchronize traffic signals at the intersection of Tache Blvd. and St. Joseph Blvd. with the automatic crossing protection at the crossing of Tache Blvd. and the C.P.R. at mileage 90.4 Montreal and Ottawa Subd. and mileage 0.2 Waltham Subd.
- 121045 June 13 – Requiring The Bell Telephone Company of Canada to relocate its facilities to permit construction of an overhead bridge to carry Highway No. 11 across and over the tracks of the C.P.R. in the Mun. of Vimont, P.Q. at mileage 0.94 Trois Rivières Subd.
- 121046 June 14 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under section 8 of the Maritime Freight Rates Act.
- 121047 June 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 3 and 8 of the Maritime Freight Rates Act.
- 121048 June 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the Maritime Freight Rates Act.
- 121049 June 13 – Authorizing the Department of Highways & Transportation of the Province of Saskatchewan to reconstruct Highway No. 37 at the crossing of the C.P.R. between the SW¼ of Sec. 17 and the SE¼ of Section 18, Twp. 8, Range 18, West 3rd Meridian, at mileage 0.71 Altawan Subd.
- 121050 June 10 – Authorizing the Township of Oro, Ontario to improve vision at the crossing of the C.N.R. and Colborne Street, mileage 66.20 Newmarket Subd.
- 121051 June 10 – Requiring the C.N.R. to relocate the existing reflectorized crossing signs from mileage 49.04 Springhill Subd. N.S. to another crossing of their railway and the highway at mileage 3.00 Lake Verde Subd. P.E.I.
- 121052 June 13 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at mileage 92.25 Wynyard Subd., Sask.
- 121053 June 13 – Approving tariffs and supplements to tariffs filed by the C.N.R. under sections 3 and 8 of the Maritime Freight Rates Act.
- 121054 June 13 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the Maritime Freight Rates Act.

- 121055 June 13 – Approving tariffs and supplements to tariffs filed by the C.P.R. under sections 3 and 8 of the Maritime Freight Rates Act.
- 121056 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under section 3 of the Maritime Freight Rates Act.
- 121057 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under Section 3 of the Maritime Freight Rates Act.
- 121058 June 13 – Approving tariffs and supplements to tariffs to Agreed Charge filed pursuant to the provisions of Part 4 of The Transport Act, under sections 3 and 8 of the Maritime Freight Rates Act.
- 121059 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association pursuant to the provisions of Part 4 of The Transport Act, under section 3 of the Maritime Freight Rates Act.
- 121060 June 13 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under section 8 of the Maritime Freight Rates Act.
- 121061 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under sections 3 and 8 of the Maritime Freight Rates Act.
- 121062 June 13 – Approving tariffs and supplements to tariffs filed by the ^{C.P.R.}~~C.N.R.~~ under sections 3 and 8 of the Maritime Freight Rates Act.
- 121063 June 13 – Approving tariffs and supplements to tariffs filed by the C.N.R. under section 3 of the Maritime Freight Rates Act.
- 121064 June 13 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under section 8 of the Maritime Freight Rates Act.
- 121065 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under sections 3 and 8 of the Maritime Freight Rates Act.
- 121066 June 13 – Approving tariffs and supplements to tariffs filed by the C.P.R. under sections 3 and 8 of the Maritime Freight Rates Act.
- 121067 June 13 – Authorizing the County of Welland, to construct Chippawa Road (County Road No. 16) across the C.N.R. in Lot 16, Con. 4, Twp. of Humberstone, Ont., at mileage 15.18 Cayuga Subd.

- 121068 June 13 – Requiring the C.P.R. to install protection at the crossing of its railway and the East-West Access Road to the Village of Crossfield, Alberta, mileage 29.12 Red Deer Subd.
- 121069 June 13 – Authorizing the removal of the speed limitation at the crossing of the Canadian Pacific Railway and the highway at Chelsea, P.Q. mileage 6.40 Maniwaki Subd.
- 121070 June 13 – Rescinding authority of Order No. 104008 which approved the location of flammable liquid bulk storage facilities of The British American Oil Company Ltd. near the tracks of the C.N.R. at Shawinigan, P.Q. Grand'Mere Subd.
- 121071 June 13 – Rescinding authority of Order No. 109680 which authorized the Crows Nest Industries Limited to drive access slopes beneath the track of the C.P.R. near mileage 11.5 Cranbrook Subd. in the Prov. of B.C.
- 121072 June 13 – Approving the location of proposed additional and relocated flammable liquid bulk storage facilities of Imperial Oil Ltd. at Elgin, Manitoba, near mileage 42.0 Hartney Subd. C.N.R.
- 121073 June 13 – Allocating the cost of maintenance of the crossing of the access road to connect with Highway No. 2 and the N.A.R. in the SW¼ of Section 31, Twp. 83, Range 21, West fifth Meridian, Alta. at mileage 49.49 Peace River Subd.
- 121074 June 13 – Amending Order No. 118692 which authorized the removal of the station agent and the appointment of a resident caretaker at Insinger, Saskatchewan, C.P.R.
- 121075 June 13 – Authorizing the C.N.R. to open for carriage of traffic the industrial spur serving Simplot Chemical Company Ltd., approx. 825 feet long commencing at mileage 77.41 Pleasant Point Subd. in the City of Brandon, Man.
- 121076 June 13 – Approving clearances on the track serving National Harbours Board grain car dumper sheds Nos. 1 and 2, in the City of Halifax, N.S. C.N.R.
- 121077 June 14 – Requiring the C.P.R. to install automatic protection at the crossing of its railway and Hope Street, South, in the Town of Port Hope, Ont. mileage 141.6 Belleville Subd.
- 121078 June 14 – Authorizing the Quebec Department of Roads to realign Montee St-Polycarpe and improve the gradients of the approaches at the crossing of the C.N.R. in the Parish of St-Polycarpe, County of Soulanges, mileage 6.17 Alexandria Subd.

- 121079 June 14 – Authorizing the C.N.R. to operate under the overhead bridge carrying Highway No. 5 across and over their tracks in the Town of Richmond, P.Q. at mileage 0.1 St. Hyacinthe Subd.
- 121080 June 14 – Approving Plan showing crossing of Raynes Avenue and the C.P.R. in the City of Lancaster, N.B. mileage 0.26 West Saint John Subd.
- 121081 June 14 – Authorizing the C.P.R. to relocate the reflectorized crossing signs at the crossing of its railway and the highway at mileage 128.24 Cascade Subd. to a crossing of its railway at mileage 1.47 Ioco Spur, which junctions with the Cascade Subd. at mileage 114.98 B.C.
- 121082 June 14 – Authorizing the Quebec Department of Roads to improve the crossing at Lotbiniere Road where it crosses the C.P.R. in the Municipality of the Parish of St-Lazare, County of Vaudreuil, mileage 24.44 Winchester Subd.
- 121083 June 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under Section 8 of the Maritime Freight Rates Act.
- 121084 June 14 – Approving tariffs and supplements to tariffs filed by the C.N.R. under sections 3 and 8 of the Maritime Freight Rates Act.
- 121085 June 14 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under Section 8 of the Maritime Freight Rates Act.
- 121086 June 14 – Authorizing the Township of Blenheim, Ont. to widen the crossing of 8th Concession Road where it crosses the C.P.R. at mileage 73.40 Galt Subd. and authorizing the railway to install automatic protection at the said crossing.
- 121087 June 14 – Authorizing the removal of the speed restriction at the crossing of the C.N.R. and Notre Dame Street in Saint Cesaire, P.Q. mileage 29.88 Granby Subd.
- 121088 June 14 – Authorizing the C.N.R. to remove the caretaker at Bristol, P.Q., mileage 47.9 Beachburg Subd.
- 121089 June 14 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Highway No. 7 at mileage 4.44 Wilkie Subd., Sask.
- 121090 June 14 – Authorizing the C.N.R. to operate their engines, cars and trains over the Saint Albert Trail subway at mileage 5.09 "B" Line Edmonton Terminal Subd., Alta.
- 121091 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association pursuant to the provisions of Part 4 of The Transport Act under section 3 of the Maritime Freight Rates Act.

- 121092 June 13 – Approving tariffs and supplements to tariffs filed by the C.P.R. under Section 8 of the Maritime Freight Rates Act.
- 121093 June 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under sections 3 and 8 of the Maritime Freight Rates Act.
- 121094 June 15 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 121095 June 15 – Exempting the C.P.R. from erecting and maintaining right of way fences between certain mileages of its Wood Mountain Subd. Sask.
- 121096 June 15 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Church Road, at Parksville, B.C. mileage 97.00 Victoria Subd.
- 121097 June 15 – Approving changes to the automatic protection at the crossing of the C.N.R. and Highway No. 20 at St. Basile le Grand, P.Q. mileage 59.03 St. Hyacinthe Subd.
- 121098 June 15 – Requiring the C.N.R. to install protection at the crossing of their railway and Highway No. 524J, four miles west of Peers, Alta. mileage 113.67 Edson Subd.
- 121099 June 16 – Approving supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Societe de Telephone La Baie du Febvre.
- 121100 June 16 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Telephone de St-Evariste Inc.
- 121101 June 16 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Nicolet Ltee.
- 121102 June 16 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone du Chateau Richer Enrg.
- 121103 June 16 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Telephone Milot Inc.
- 121104 June 16 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie Telephonique St-Wenceslas.
- 121105 June 16 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de la Paroisse de St-Theodore d'Acton.

- 121106 June 16 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Champlain Limitee.
- 121107 June 16 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Fortier-ville.
- 121108 June 16 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Cie de Telephone St-Felix Inc.
- 121109 June 16 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Telephone Princeville Limitee.
- 121110 June 16 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Syndicat Cooperatif de Telephone de Ste-Emmelie.
- 121111 June 16 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Telephone de Henry-ville Enrg.
- 121112 June 16 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Ste-Methode.
- 121113 June 16 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Parisville Inc.
- 121114 June 16 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone d'Arthabaska Limitee.
- 121115 June 16 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Compagnie de Telephone St-Jean Baptiste de Roxton.
- 121116 June 16 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Clarence Telephone Company Limited.
- 121117 June 16 – Authorizing the Quebec Department of Roads to widen Anse-a-Gilles Road where it crosses the C.N.R. in the Municipality of Cap St-Ignace, County of Montmagny, mileage 67.57 Montmagny Subd.
- 121118 June 16 – Authorizing the C.P.R. (Esquimalt and Nanaimo Railway) to operate its engines, cars and trains under the overhead

bridge crossing its railway at mileage 59.5 Victoria Subd., B.C.

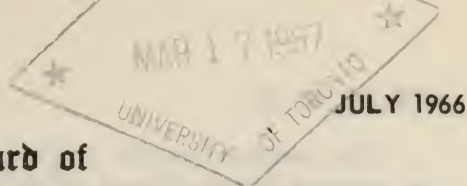
- 121119 June 16 – Approving changes in the automatic protection at the crossing of the C.P.R. and Moodie Drive, in the Township of Nepean, Ont. at mileage 7.95 Carleton Place Subd. and the allocation of cost of maintenance of the protection at said crossing.
- 121120 June 17 – Authorizing the Highways Department of the Province of Manitoba to reconstruct Provincial Trunk Highway No. 59 across and over the C.P.R. by means of dual overhead bridges in Lots 87 and 88 O.T.M., Parish of Kildonan, Rural Munc. of North Kildonan, mileage 122.4 Keewatin Subd.
- 121121 June 17 – Authorizing the C.P.R. to operate its engines, cars and trains under the Westholme overhead bridge at mileage 5.25 Victoria Subd., B.C.
- 121122 June 17 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and the first public crossing east of Marengo Station, Rural Munc. of Milton No. 292, Sask.
- 121123 June 17 – Authorizing the Department of Highways and Transportation of the Province of Saskatchewan to construct Highway No. 5 across the C.N.R. in the City of North Battleford, Sask. mileage 81.05 Langham Subd.
- 121124 June 17 – Granting leave to the C.N.R. to permanently convert into a fixed span the swing span of the bridge over Jeannettes Narrows at Bala Park, Ont. at mileage 113.2 Bala Subd.
- 121125 June 17 – Approving tariffs and supplements to tariffs filed by the C.N.R. under sections 3 and 8 of the Maritime Freight Rates Act.
- *121126 June 17 – Authorizing the C.N.R. to abandon their Hurdman Line from mileage 0.00 Ottawa Junction to the end of tracks, Mann Ave. in the City of Ottawa, Ont. (See page 1053, 56 B.T.C.)
- 121127 June 17 – Approving Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Township of Tuckersmith.
- 121128 June 17 – Approving revisions to tariffs filed by Canadian National Telecommunications.
- 121129 June 17 – Authorizing the Highways Department of the Province of Manitoba to reconstruct Provincial Road No. 326 at the crossing of the C.P.R. in the SW¼ of Sec. 23, Twp. 22, Rge. 2, East Principal Meridian, in the Village of Arborg, Municipality of Bifrost, mileage 74.17 Arborg Subd.

- 121130 June 17 – Approving changes to the signals between Cadorna and Allenby, P.Q. on the Bridge Subd. of the C.N.R.
- 121131 June 17 – Authorizing the C.N.R. to relocate and revise the automatic protection at the crossing of their railway and First Concession Road North, in St-Pierre-de-la-Riviere-du-Sud, P.Q. mileage 83.01 Montmagny Subd.
- 121132 June 17 – Amending Order No. 118470 which authorized the C.P.R. to relocate that portion of its Outlook Subd. commencing at a point in the northwest quarter of Sec. 12, Twp. 23, Rge. 4, West Third Meridian, mileage 61.13 Outlook Subd. and ending at a point in the southwest quarter of Sec. 31, Twp. 24, Rge. 4, West Third Meridian at mileage 74.93 (formerly mileage 73.33) Outlook Subd. Province of Sask.
- 121133 June 17 – Authorizing the C.N.R. to construct a temporary diversion of their track to permit construction of the subway at mileage 4.99 St. Romuald Subd., P.Q.
- 121134 June 17 – Authorizing the City of Farnham, P.Q. to construct Dollard Street across the C.P.R. at mileage 0.41 Stanbridge Subd.
- 121135 June 17 – Approving the changes to the automatic protection at the crossing of the C.P.R. and Michael Street in Ottawa, Ont. mileage 84.29 Montreal and Ottawa Subd.
- 121136 June 17 – Authorizing the C.N.R. to construct additional tracks across Gladstone and Kennard Avenues (unopened) in the City of North Vancouver, B.C.
- 121137 June 17 – Allocating the cost of removal or relocation of the Saskatchewan Government Telephones and the Saskatchewan Power Corporation facilities to permit the reconstruction of the subway carrying Second Avenue East across and under the C.P.R. in the City of Moose Jaw, Sask. at mileage 135.0 Indian Head Subd.
- 121138 June 17 – Authorizing the Quebec Department of Roads to widen and improve St. Georges Range Road (Highway No. 32) where it crosses the C.N.R. in the Municipality of the Parish of St. Liboire, County of Bagot, mileage 32.95 St. Hyacinthe Subd.
- 121139 June 17 – Authorizing the Department of Highways and Transportation of the Province of Saskatchewan to construct Highway No. 80 across the C.N.R. between the SE $\frac{1}{4}$ of Sec. 11, Twp. 20, Rge. 33, West 1st Meridian and the NE $\frac{1}{4}$ of Sec. 11, Twp. 20, Rge. 33 West 1st Meridian near Yarbo, Sask. at mileage 239.99 Rivers Subd.

- 121140 June 17 – Authorizing the Quebec Department of Roads to widen and improve Old Highway No. 8 where it crosses the C.P.R. in the Municipality of the Village of Calumet, County of Argenteuil, at mileage 60.34 Lachute Subd.
- 121141 June 17 – Authorizing the C. & O. R. to relocate the existing reflectorized signs from the crossing at mileage 64.3 No. 1 Subd., to another crossing of its railway and the highway at mileage 1.00 No. 2 Subd., Ont.
- 121142 June 17 – Amending Order No. 105877 which authorized the City of Portage la Prairie Man. to construct Tupper Street by means of an overhead bridge across and over the C.P.R. at mileage 55.80 Carberry Subd. and the C.N.R. at mileage 47.8 Harte Subd.
- 121143 June 17 – Approving the changes to the C.N.R. signal system on their Bala Subd. at Capreol, Ont.
- 121144 June 17 – Authorizing the Quebec Department of Roads to construct a subway designated as Viaduct "B", to carry Carillon Avenue across and under the yard corridor tracks of the C.N.R. in the City of Montreal, opposite mileage 3.97 Montreal Subd.
- 121145 June 17 – Authorizing the City of Edmonton, Alberta to widen 111th Avenue at the crossing of the C.N.R. at mileage 2.33 West Loop, Edmonton Terminal Subd.
- 121146 June 17 – Relieving the C.N.R. from erecting and maintaining fences on the north side of their Wainwright Subd. between mileage 117.1 and mileage 120.9, Alta.
- 121147 June 17 – Authorizing the Quebec Department of Roads to widen and improve St. Antoine Street at the crossing of the C.N.R. in the Municipality of the Village of Contrecoeur, County of Vercheres, at mileage 29.38 Sorel Subd.
- 121148 June 17 – Authorizing the C.N.R. to construct a siding to serve Pettigrew and Letellier Ltd, across Pruneau Avenue in the City of Quebec West, at mileage 0.30 of said siding which commences at chainage 13+65 on Industrial track off mileage 3.09 Lairet Subd.
- 121149 June 17 – Authorizing the Rural Municipality of Lac du Bonnet to widen Municipal Road at the crossing of the C.P.R. between Secs. 17 and 18, in Twp. 15, Rge. 11, East Principal Meridian, Man. mileage 64.44 Lac du Bonnet Subd.
- 121150 June 17 – Authorizing the City of Regina, Sask. to construct Roßs Avenue across the C.N.R. at mileage 0.35 of the Winnipeg Street Industrial Lead which commences at mileage 92.77 Qu'Appelle Subd.

- 121151 June 17 – Approving the changes to the C.N.R. signal system on their Ruel Subd. at Capreol, Ont.
- 121152 June 17 – Authorizing the C.P.R. to construct an industrial spur line to serve Noranda Mines Limited commencing at mileage 70.38 (west leg of wye) and mileage 70.02 (east leg of wye) Sutherland Subd. in the SE¼ of Sec. 33, crossing the Municipal Road at mileage 0.21 main spur and mileage 0.17 east leg of wye, and crossing the east-west Government Road allowance at mileage 1.39, to a point in the NE¼ of Sec. 21, Twp. 34, Rge. 27, West 2nd Meridian Province of Sask.
- 121153 June 20 – Dismissing the application of the C.P.R. for authority to remove the station agent and the station at Canterbury, N.B. mileage 22.5 Shogomoc Subd.
- 121154 June 20 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Falkland, B.C. mileage 47.14 Okanagan Subd.
- 121155 June 20 – Approving revisions to tariffs filed by the Canadian National Communications.
- 121156 June 20 – Authorizing the Quebec Department of Roads to widen and improve Cameron Road where it crosses the Quebec Central Railway (C.P.R.) in the Municipality of the Parish of Ste-Marie, County of Beauce.
- 121157 June 20 – Authorizing the C.N.R. to construct a railway bridge across the Second Narrows of Burrard Inlet and across and over the tracks of the C.P.R. in the City of Vancouver, B.C.
- 121158 June 20 – Authorizing the City of Jonquiere, P.Q. to widen St. Dominique Street at the crossing of the C.N.R. at mileage 105.36 Jonquiere Subd.
- 121159 June 20 – Authorizing the City of Beauport, P.Q. to widen Boulevard des Chutes at the crossing of the C.N.R. at mileage 3.00 Murray Subd.
- 121160 June 20 – Authorizing the C.P.R. to operate its engines, cars and trains over the two metal pipe culverts and fill at mileage 1.89 Bredenburg Subd., Man.
- 121161 June 20 – Authorizing the Quebec Department of Roads to construct overhead bridges to carry connecting roads between Champlain Bridge and the Trans-Canada Highway and access roads to Highways No. 2 and No. 17, across and over the C.N.R. in the City of Montreal, P.Q. mileages 4.23; 4.09; 4.12; 4.16; 4.19; 4.20; 4.26 and 4.29 Montreal Subd.

121162 June 20 – Authorizing the Quebec Department of Roads to construct a grade separation to carry access roads to Highways No. 2 and No. 17 and connecting roads between Champlain Bridge and Trans-Canada Highway over the C.N.R. in the City of Montreal P.Q. opposite mileages 4.01; 4.03; 4.16; 4.21 and 4.23 Montreal Subd.



Canada The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

GENERAL ORDER NO. T-42

**TUESDAY, THE 5TH DAY OF
JULY, A.D. 1966.**

Bulk Grain Bill of Lading.

D KERR, Q.C.,
Chief Commissioner.
AS. KIRK,
Commissioner.

File No. 3678.7

IS HEREBY ORDERED AS FOLLOWS:

1. The terms and conditions set out in Appendix "A" attached hereto are prescribed for the carriage of bulk grain traffic by railway companies subject to the jurisdiction of the Board when such traffic is carried under a bulk grain bill of lading.
2. Such terms and conditions shall be set forth in the Canadian Freight Classification, and shall also be available at all freight agency stations and freight offices upon request.
3. The terms and conditions prescribed in paragraph 1 of this Order shall appear on the bulk grain bill of lading which shall clearly indicate that it is not negotiable unless property is consigned "To Order", and which bill of lading shall also contain the following clauses:

"RECEIVED, subject to the tariff in effect on date of issue of this original bill of lading, the bulk grain described below, consigned and destined as indicated below, which the Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said bulk grain over all or any portion of said route to destination, and as to each party at any time interested in all or any of said bulk grain, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns."

"The surrender of this original bill of lading, properly endorsed, shall be required before delivery of the bulk grain when consigned "To Order" or upon application by the owner or consignee for terminal elevator delivery or warehouse receipt.

"Inspection of the bulk grain covered by the bill of lading will not be permitted unless provided by law, or unless permission for inspection at the final point of destination is endorsed by the shipper on the original bill of lading or given in writing by the holder thereof. The shipper represents the bulk grain to be dry and suitable for warehousing."

4. Order No. 14591 dated August 18, 1911, is rescinded.

(SGD) ROD KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada

"APPENDIX A"

**TERMS AND CONDITIONS FOR THE
CARRIAGE OF BULK GRAIN**

SECTION 1 - The carrier of the bulk grain herein described shall be liable for any loss thereof or damage thereto except as hereinafter provided.

SECTION 2 - In the case of shipments from one point in Canada to another point in Canada, or where bulk grain is shipped under a joint tariff, the carrier issuing this bill of lading, in addition to its other liability hereunder shall be liable for any loss, damage, or injury to such bulk grain from which the other carrier is not by the terms of this bill of lading relieved, caused by or resulting from the act, neglect, or default of any other carrier to which such bulk grain may be delivered in Canada, or under such joint tariff, or over whose line or lines such bulk grain may pass in Canada, or under such joint tariff, the onus of proving that such loss was not so caused or did not so result being upon the carrier issuing this bill of lading. The carrier issuing this bill of lading shall be entitled to recover from the other carrier on whose line or lines the loss, damage or injury to the said bulk grain shall have been sustained the amount of such loss, damage or injury, as it may be required to pay hereunder as may be evidenced by any receipt, judgment or transcript thereof. Nothing in this section shall deprive the holder of this bill of lading or party entitled to the bulk grain of any remedy or right of action which he may have against the carrier issuing this bill of lading or any other carrier.

SECTION 3 - The carrier shall not be liable for loss, damage or delay to the bulk grain herein described, caused by the Act of God, the Queen's or public enemies, riots, strikes, defect or condition of the grain or the act or default of the shipper or owner; for difference in weights, caused by natural shrinkage or discrepancies in elevator weights unless the weights are evidenced by Dominion Government certificate, or the authority of law. Except in case of negligence of the carrier (and the burden of proving freedom from such negligence shall be on the carrier) the carrier shall not be liable for loss, damage or delay occurring while the grain is stopped and held in transit upon the request of the party entitled to make such request.

SECTION 4 - The carrier is not bound to transport the bulk grain herein described on any particular train, or in time for any particular market or otherwise than as required by law, unless by specific agreement endorsed hereon. In case of physical necessity the carrier shall have the right to forward the bulk grain herein described by any connecting railway between the point of shipment and the point of destination.

SECTION 5 - The amount of any loss or damage for which the carrier is liable shall be computed on the basis of the value of the bulk grain herein described

B.T.C.

at the place and time of shipment under this bill of lading (including the freight charges, if paid, or the duty if paid or payable and not refunded) whether or not such loss or damage occurs from negligence.

SECTION 6 – Notice of loss, damage, or delay must be made in writing, to the carrier at the point of delivery, or to the carrier at the point of origin, or to the Claims Agent of either, within four months after delivery of the bulk grain herein described, or in case of failure to make delivery, then within four months after a reasonable time for delivery has elapsed. Unless notice is so given the carrier shall not be liable.

SECTION 7 – Any carrier liable on account of loss of or damage to any of said bulk grain herein described, on reimbursing to the insured the premiums paid in respect thereof, shall have the full benefit of any insurance that may have been effected upon or on account of said bulk grain herein described, so far as this shall not avoid the policies or contracts of insurance.

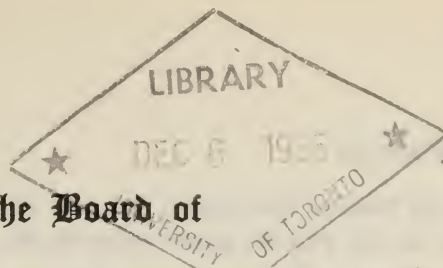
SECTION 8 – Grain, in bulk, consigned to a point where the carrier has an elevator or warehouse or where there is a public or licensed elevator or warehouse, may be delivered and placed with other grain of the same kind and grade, without respect to the ownership, and for the purpose of this, Port Arthur, Fort William, and West Fort William, Ont., shall be deemed one point, provided that this shall not apply (except in cases of grain consigned to Port Arthur, Fort William and West Fort William, Ont.), unless the grain is not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after written notice has been sent or given. Bulk grain so stored shall be held at the risk of the owner and without liability on the part of the carrier. If a Dominion Government Grain Inspector shall decide that any part of the grain herein described is not dry or is otherwise unsuitable for warehousing, then what is so decided to be wet or unsuitable may in the discretion of the carrier, at the owner's risk and expense, both as to transshipment and transfer or otherwise, be deposited in any available public or licensed elevator or warehouse equipped with special machinery for the treatment of unsound grain, to be there stored, elevated or otherwise treated, either separately or in common with other grain of similar class and on arrival there ready for delivery, the carrier's liability in respect to it shall be ended.

Bulk grain delivered as in this section provided shall be subject to a lien for all freight, elevator or other lawful charges.

SECTION 9 – Bulk grain shipped from a private siding or a station where there is no duly authorized agent shall be at the risk of the owner until the car is lifted or bill of lading is issued by the carrier, and thereafter shall be at the risk of the carrier. Bulk grain destined to a private siding or station where there is no duly authorized agent shall be at the risk of the carrier until placed on the delivery siding.

SECTION 10 — The owner or consignee shall pay the freight and all other lawful charges accruing on the bulk grain herein described and if required shall pay the same before delivery.

SECTION 11 — Any alteration, addition or erasure in the Bill of Lading shall be signed or initialled in the margin by any agent of the carrier issuing the same, and if not so signed or initialled shall be without effect and this Bill of Lading shall be enforceable according to its original tenor.



JULY 1966

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 121284

MONDAY, THE 11TH DAY OF
JULY, A. D. 1966.

J.M. WOODARD,
Commissioner,
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways, hereinafter called the "Applicants", for an Order authorizing –

a) *the abandonment of a portion of their main track between mileage 0.00 and mileage 0.15 Simcoe Subdivision, in the Town of Port Dover, Province of Ontario, as shown on Plan No. SDB-0.05-Yd., revised to April 6, 1966, on file with the Board under file No. 49227; and*

b) *the relocation of their station building between Chapman and Nelson Streets, in the Town of Port Dover, Province of Ontario, as shown in green on the said plan:*

File No. 49227

UPON reading the submissions filed –

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicants are authorized –

- a) to abandon eight hundred feet of their main track between mileage 0.00 and mileage 0.15 Simcoe Subdivision, in the Town of Port Dover, Province of Ontario; and
- b) to relocate the station building to the location of the former Canadian Pacific Railway Company's station, between Chapman and Nelson Streets,

in the Town of Port Dover, Province of Ontario, all as shown on the said plan on file with the Board under file No. 49227.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121293

MONDAY, THE 11TH DAY OF
JULY, A.D. 1966.

J.M. WOODARD,
Commissioner.

A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company, under section 353 of the Railway Act, for authority to publish rates on Cadmium, Metallic, at carload minimum weight of 100,000 pounds, not subject to Rule 24 of Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, from Tadanac, British Columbia, to a number of destinations in the United States, subject to a released valuation not exceeding forty cents (40¢) per pound:

File No. 40615

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Pacific Railway Company is authorized to publish rates on Cadmium, Metallic, at carload minimum weight of 100,000 pounds, not subject to Rule 24 of Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, from Tadanac, British Columbia, to a number of destinations in the United States, subject to a released valuation not exceeding forty cents (40¢) per pound.

(SGD) JOHN M. WOODARD,
Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 121397

MONDAY, THE 18TH DAY OF
JULY, A.D. 1966.

J.M. WOODARD,
Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways for authority to abandon that portion of the Alexandria Subdivision in the City of Ottawa, between points "G" and "H" at Stations 3870 + 62 and 3854 + 19 respectively, as shown in yellow on Plan RC 15-8, revised May 11, 1966, on file with the Board under file No. 46260.10:

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian National Railways are authorized to abandon that portion of the Alexandria Subdivision in the City of Ottawa, between points "G" and "H" respectively as shown in yellow on the said plan on file with the Board under file No. 46260.10.

(SGD) JOHN M. WOODARD,
Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121416

MONDAY, THE 18TH DAY OF
JULY, A.D. 1966.

ROD. KERR, Q.C.
Chief Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF subsidy
payments on bulk grain, carloads, to
Eastern Canadian ports for export
moving under "At-and-East" export
rates:

File No. 17112.49

WHEREAS Order in Council P.C. 1966-1149 dated the 21st day of June 1966 further extends until December 31, 1966, the suspension of paragraph No. 2 of Order No. 103860 of the Board of Transport Commissioners for Canada dated February 23, 1961, and also provides as follows:

" the said suspension to be on the basis of payments to the Railways of a subsidy, pursuant to any enactment of the Parliament of Canada for defraying the several charges and expenses of the public service from and after the first day of April, 1966, to cover the difference between the rates that were in effect on November 30, 1960 and compensatory rates approved by the Board of Transport Commissioners. "

AND WHEREAS Vote 83a of the Supplementary Estimates (A) for the fiscal year ending March 31, 1967 is as follows:

" Payments to the railway companies subject to paragraph No. 2 of Order No. 103860 dated February 23, 1961, of the Board of Transport Commissioners for Canada, which paragraph authorized the railways to increase freight rates on export bulk grain moving from certain ports located on Georgian Bay, the Great Lakes and the St. Lawrence River to Montreal and ports east thereof on the St. Lawrence River and on the Canadian Atlantic Coast and which paragraph has been suspended by Orders in Council, requiring the railways to continue in effect the rates which prevailed and were published on November 30, 1960, such payments to be the difference between those rates which were in effect on November 30, 1960 and compensatory rates as approved by the Board of Transport Commissioners for Canada.....\$3,000,000."

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

1. The Board hereby certifies that the railways' proportion of the freight rates that were in effect on November 30, 1960, now published on 16th Revised Page 69 to Canadian Pacific Railway Tariff E.500-D, C.T.C.(F) No. E.5172 and

56 B.T.C.

55th Revised Page 47 to Canadian National Railways' Tariff C.G. 130-2, C.T.C.(F) No. E.3867 are as shown in Column "A" of paragraph 6 hereof.

2. The Board hereby approves, for the purposes of the aforesaid subsidy payments, the freight rates published on 41st Revised Page 47 to Canadian National Railways' Tariff C.G. 130-2, C.T.C.(F) No. E.3867 and 18th Revised Page 69 to Canadian Pacific Railway Tariff E.500-D, C.T.C.(F) No. E.5172, the said freight rates being compensatory and as set out in Column "B" of paragraph 6 hereof.

3. The said Payments to the railways shall be on the basis of the difference between the certified rates shown under Column "A" of paragraph 6 hereof and the approved rates set out in Column "B" of the said paragraph 6.

4. The said subsidy has application to all bulk grain as hereinafter described and forwarded for export after January 1, 1966, under existing "At-and-East" export freight rates.

5. The railways shall file with the Board as soon as possible after the end of each calendar month, a statement in quadruplicate, certified by its Accounting Department, of the revenues alleged due in such detail as the Board may from time to time require.

6. (1) Tolls under Section 4 of Canadian Pacific Railway Company Tariff No. E. 500-D, C.T.C.(F) No. E.5172, expressed in cents per 100 lbs.

(a) from Goderich, Midland, Owen Sound, Port Colborne, Port McNicoll, Toronto and Walkerville, Ont.

<u>To</u>	<u>Kind of Grain</u>	<u>Column "A"</u>	<u>Column "B"</u>
Montreal, Que.	Wheat	20.32	23.50
	Oats	20.15	23.50
	Rye - Corn	20.26	23.50
	Soya Beans	20.34	23.50
	Buckwheat	24.14	27.50
	Barley	24.21	27.50
Trois Rivieres, Que.	Wheat - Soya Beans	21.09	25.00
	Oats	21.08	25.00
	Rye - Corn	21.06	25.00
	Buckwheat - Barley	24.99	29.00
Quebec, Que.	Wheat	20.62	26.50
	Oats	20.52	26.50
	Rye - Corn	20.57	26.50
	Soya Beans	20.63	26.50
	Buckwheat	24.47	30.50
	Barley	24.51	30.50

<u>To</u>	<u>Kind of Grain</u>	<u>Column "A"</u>	<u>Column "B"</u>
West Saint John N.B.	Wheat - Soya Beans	23.17	33.00
	Oats	24.85	33.00
	Rye - Corn	23.29	33.00
	Buckwheat - Barley	27.59	37.00

(b) From Prescott, Ont.

<u>To</u>	<u>Kind of Grain</u>	<u>Column "A"</u>	<u>Column "B"</u>
West Saint John, N.B.	Wheat - Soya Beans	21.67	28.00
	Oats	23.35	28.00
	Rye - Corn	21.79	28.00
	Buckwheat - Barley	26.09	32.00

(c) From Montreal, Que.

<u>To</u>			
West Saint John, N.B.	Wheat	21.98	25.00
	Oats	24.34	25.00
	Rye - Corn	22.15	25.00
	Soya Beans	22.00	25.00
	Buckwheat	26.59	29.00
	Barley	26.66	29.00

(d) From Trois Rivières, Que.

<u>To</u>			
West Saint John, N.B.	Wheat	22.75	25.00
	Oats	25.27	25.00
	Rye - Corn	22.95	25.00
	Soya Beans	22.75	25.00
	Buckwheat - Barley	27.44	29.00

(3) From Quebec, Que.

<u>To</u>			
West Saint John, N.B.	Wheat	22.28	25.00
	Oats	24.70	25.00
	Rye - Corn	22.46	25.00
	Soya Beans	22.29	25.00
	Buckwheat	26.92	29.00
	Barley	26.96	29.00

(2) Tolls under Section 4 of Canadian National Railways' Tariff No. C.G. 130-2, C.T.C.(F) No. E.3867, expressed in cents per 100 lbs.

(a) From Collingwood, Goderich, Midland, Owen Sound, Port Colborne, Sarnia, Tiffin, Toronto and Walkerville, Ont.

<u>To</u>	<u>Kind of Grain</u>	<u>Column "A"</u>	<u>Column "B"</u>
Montreal, Que.	Wheat - Soya Beans	20.27	23.50
	Oats	20.15	23.50
	Rye - Corn	20.26	23.50
	Buckwheat	24.14	27.50
	Barley	24.21	27.50
Sorel, Que.	Wheat - Soya Beans	21.09	25.00
	Oats	21.08	25.00
	Rye - Corn	21.06	25.00
	Buckwheat - Barley	24.99	29.00
Quebec, Que.	Wheat - Soya Beans	20.59	26.50
	Oats	20.52	26.50
	Rye - Corn	20.57	26.50
	Buckwheat	24.47	30.50
	Barley	24.51	30.50
Saint John, N.B. and Halifax, N.S.	Wheat - Soya Beans	23.17	33.00
	Oats	24.85	33.00
	Rye - Corn	23.29	33.00
	Buckwheat - Barley	27.59	37.00

(b) From Kingston, Ont.

<u>To</u>			
Saint John, N.B. and Halifax, N.S.	Wheat - Soya Beans	22.17	31.00
	Oats	24.85	31.00
	Rye - Corn	23.29	31.00
	Buckwheat - Barley	27.49	35.00

(c) From Prescott, Ont.

<u>To</u>			
Saint John, N.B. and Halifax, N.S.	Wheat - Soya Beans	21.67	28.00
	Oats	23.35	28.00
	Rye - Corn	21.79	28.00
	Buckwheat - Barley	26.09	32.00

(d) From Montreal, Que.

<u>To</u>	<u>Kind of Grain</u>	<u>Column "A"</u>	<u>Column "B"</u>
Saint John, N.B. and Halifax, N.S.	Wheat - Soya Beans	22.55	25.00
	Oats	24.34	25.00
	Rye - Corn	22.15	25.00
	Buckwheat	26.59	29.00
	Barley	26.66	29.00

(e) From Sorel, Que.

<u>To</u>			
Saint John, N.B. and Halifax, N.S.	Wheat, Soya Beans	22.50	25.00
	Oats	22.78	25.00
	Rye - Corn	22.77	25.00
	Buckwheat - Barley	27.44	29.00

(f) From Quebec, Que.

<u>To</u>			
Saint John, N.B. and Halifax, N.S.	Wheat - Soya Beans	22.45	25.00
	Oats	24.97	25.00
	Rye - Corn	22.65	25.00
	Buckwheat - Barley	27.14	29.00

(SGD) ROD. KERR,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 121460

THURSDAY, THE 21ST DAY OF
JULY, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.

A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of The Coal Operators' Asso-
ciation of Western Canada, et al, re
proposed demurrage regulations on
export traffic:*

File No. 1700.418

WHEREAS by Order No. 120632, dated April 26th, 1966, and by Order No. 121206, dated June 23rd, 1966, the effective date of certain tariff items as listed therein was postponed until July 27, 1966, to afford any interested parties an opportunity of making submissions thereon:

AND WHEREAS submissions have been received by the Board indicating opposition to the said tariff items, and in consideration thereof the Board has decided the matter is one which must be heard and a determination reached thereon—

IT IS HEREBY ORDERED AS FOLLOWS:

1. The following tariff items are suspended pending hearing and determination:

- Agent G.H. Mitchell's Tariff No. 114-1, C.T.C.(F) 738
Item 400 on 29th revised Page 135 and 7th Revised Page 135-A to Canadian National Railways Tariff C.R. 200, C.T.C.(F) E.1694.
Item 28 on 18th Revised Page 20 and 5th Revised Page 20A to Canadian Pacific Railway Company Tariff No. E3050, C.T.C.(F) No. E.4126
Item 95 on 3rd Revised Page 32 to Dominion Atlantic Railway Company Tariff No. 131-A, C.T.C. No. 1198.
Item 175 on 3rd Revised Page 68 and 1st Revised Page 68-A to Quebec Central Railway Company Tariff No. 220, C.T.C.(F) No. 1105.

2. A date and place of hearing will be subsequently fixed and the parties notified thereof.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, MAY, 1966.

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents	230	8	232
Level Crossing Accidents	36	8	44
	<u>266</u>	<u>16</u>	<u>276</u>

	<u>Killed</u>	<u>Injured</u>
Passengers	—	65
Employees	1	164
Others	15	47
	<u>16</u>	<u>276</u>

Of the 36 accidents at Highway Crossings, 24 occurred where standard railway crossing signs are located, 12 where additional forms of protection are in use, 31 after Sunrise and 5 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 121163 June 21 – Authorizing the Rural Municipality of Piapot No. 310, Sask. to reconstruct Municipal Grid Road where it crosses the C.P.R. east of the NE¼ of Sec. 33, Twp. 12, Rge. 22, West Third Meridian, near Sidewood, mileage 57.34 Maple Creek Subd.
- 121164 June 21 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Queen Street, in Brampton, Ontario, mileage 15.1 Halton Subd.
- 121165 June 21 – Requiring the C.P.R. to install reflectorized signboards at certain highway crossings of its railway in Canada.
- 121166 June 21 – Allocating the cost of maintenance of the crossings of the N.A.R. and the highways at mileage 49.28 Peace River Subd. and the north wye track and the highway in the SW¼ of Sec. 31, Twp. 83, Rge 21, West 5th Meridian in the Town of Peace River, Alberta.
- 121167 June 21 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Division Street in Brighton, Ontario, mileage 241.6 Kingston Subd.
- 121168 June 21 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Highway No. 14 at Stirling, Ontario, mileage 17.40 Campbellford Subd.
- 121169 June 21 – Allocating the cost of maintenance and operation of the automatic protection at the crossing of the C.N.R. and 2nd Range Road in the Parish of Ste. Anne du Sault, P.Q. mileage 69.29 Drummondville Subd.
- 121170 June 21 – Approving location of the proposed liquefied petroleum gas bulk storage and transfer facilities of the Seventy-Seven Oil Company Limited at Warner, Alberta, Coutts Subd. C.P.R.
- 121171 June 21 – Authorizing the C.P.R. to construct a second track at the crossing of the public road at mileage 36.30 Trois-Rivieres Subd. in the Municipal Corporation of St. Thomas, P.Q.
- 121172 June 21 – Authorizing the C.P.R. to operate its engines, cars and trains on the subway structure which carries its tracks across and over Shaughnessy Street, in the City of Port Coquitlam, B.C. mileage 112.2 Cascade Subd.
- 121173 June 21 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.

- 121174 June 21 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under section 3 of the Maritime Freight Rates Act.
- 121175 June 21 – Approving tariffs and supplements to tariffs filed by the C.P.R. under Section 8 of the Maritime Freight Rates Act.
- 121176 June 21 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the Maritime Freight Rates Act.
- 121177 June 21 – Approving tariffs and supplements to tariffs filed by the C.N.R. under Sections 3 and 8 of the Maritime Freight Rates Act.
- 121178 June 21 – Authorizing the removal of the speed limitation at the crossing of C. & O.R. and 4th Concession Road three miles west of the station at Blenheim, Ontario, mileage 72, No. 1 Subd.
- 121179 June 21 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Strathroy, Ontario, mileage 18.69 Strathroy Subd.
- 121180 June 21 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Manilla, Ontario, mileage 13.25 Uxbridge Subd.
- 121181 June 21 – Authorizing the C.P.R. to operate its engines, cars and trains under the Ioco highway bridge over its railway at mileage 114.64 Cascade Subd., B.C. to which a 6 inch diameter gas main has been affixed.
- 121182 June 22 – Authorizing the C.N.R. to construct a temporary track diversion to permit construction of dual subways in the Munc. of St. Romuald d'Etchemin, County of Levis, P.Q. at mileage 6.92 St. Romuald Subd.
- 121183 June 22 – Authorizing the C.N.R. to reconstruct their bridge over Agate Creek, in British Columbia at mileage 57.0 Skeena Subd.
- 121184 June 22 – Authorizing the Quebec Department of Roads to widen and improve old Highway No. 46 at the crossing of the Nipissing Central Railway in the Twp. of Beauchastel, County of Rouyn-Noranda, P.Q. at mileage 54.35 Kirkland Lake Subd.
- 121185 June 22 – Rescinding authority of Order No. 98331, which approved the location of the flammable liquid bulk storage facilities of Gibson Petroleum Company Limited near the C.N.R. at Glenevis, Alta. mileage 44.5 Sanguido Subd.
- 121186 June 22 – Rescinding authority of Orders No. 71799, No. 74694 and No. 83961 which approved the location of the flammable liquid bulk storage facilities of Imperial Oil Limited at Fort Saskatchewan, Alberta, C.N.R.

- 121187 June 22 – Approving the changes to the automatic protection by the National Capital Commission at the crossing of the C.P.R. and Innes Road, in the City of Ottawa, Ontario, mileage 83.62 Montreal and Ottawa Subd.
- 121188 June 22 – Authorizing the Trans Mountain Oil Pipe Line Company to construct one 12-inch, one 8-inch, one 6-inch and one 3-inch low pressure pipe lines and one 6-inch, and one 8-inch high pressure propane pipe lines across and over the C.P.R. near Westridge, B.C. near mileage 121 Cascade Subd.
- 121189 June 22 – Authorizing the Quebec Department of Roads to construct an overhead bridge to carry a connecting road between Champlain Bridge, Highways Nos. 2 and 17 and the Trans-Canada Highway, across and over the C.N.R. in the City of Montreal, P.Q. at mileage 1.25 Canal Bank Branch with head block at mileage 2.99 Montreal Subd.
- 121190 June 22 – Authorizing the Highways Department of the Province of Manitoba to widen Provincial Road No. 540 where it crosses the C.N.R. east of the NE¼ of Sec. 9, Twp. 6, Rge. 23, West Principal Meridian near Hartney, in the Rural Municipality of Cameron, Manitoba, mileage 53.46 Hartney Subd.
- 121191 June 22 – Authorizing the C.P.R. to operate its engines, cars and trains on the trackage of the C.N.R. Alexandria Subd. from Point "A" which is the east limit of the road allowance of Walkley Road, to point "B" which is located west of the Rideau River at the connection track of the National Capital Commission at mileage 76.93 and on the wye track from mileage 76.34 Alexandria Subd. of the C.N.R. to mileage 3.33 Sussex Street Branch of the C.P.R., in the City of Ottawa, Ontario.
- 121192 June 22 – Amending Order No. 119443 which authorized the Quebec Department of Roads to reconstruct St. Charles Road at the crossing of the C.P.R. in the Parish of Pointe-du-Lac, County of St. Maurice, P.Q.
- 121193 June 22 – Approving Supplements No. 3 and 4 to Traffic Agreement between The Bell Telephone Company of Canada and Department of Reform Institutions at Burwash, Ontario.
- 121194 June 22 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Lyndhurst Telephone Company Limited.
- 121195 June 22 – Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Disraeli.

- 121196 June 22 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Telephone Frontenac Limitee.
- 121197 June 22 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Locale de Ham Nord.
- 121198 June 22 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St-Hubert de Spaulding.
- 121199 June 22 – Authorizing the removal of the speed limitations at the crossing of the C.N.R. and Alan Street, in the City of Charlottetown, P.E.I. at mileage 1.07 Kensington Subd.
- 121200 June 22 – Authorizing the C.P.R. to remove the caretaker at Ninga, Manitoba, mileage 62.2 Napinka Subd.
- 121201 June 22 – Authorizing the C.P.R. to remove the caretaker at Fannystelle, Manitoba.
- 121202 June 22 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. at Hardy's Public Crossing in the Province of New Brunswick, mileage 22.99 Tormentine Subd.
- 121203 June 22 – Approving Revised Appendix "A" to Traffic Agreement between The Bell Telephone Company of Canada and The South Crosby Rural Telephone Company Limited.
- 121204 June 22 – Authorizing the C.N.R. to install protection at the crossing of their railway and Riviere Rouge Range South Road, in the Village of St. Andre-East, County of Argenteuil, P.Q. mileage 16.34 Grenville Subd.
- *121205 June 21 – Authorizing the C.N.R. to abandon operation of its Coboconk Subd. between Woodville, mileage 12.55 and Lorneville, mileage 13.88, Province of Ontario, and abandonment of operation of its Midland Subd. between Lindsay, mileage 2.50 and Beaverton East, mileage 24.70 in the Province of Ontario, and to close and remove their railway station at Woodville, Province of Ontario. (See page 1047, 56 B.T.C.)
- *121206 June 23 – Postponing the effective date of proposed changes to certain tariff items in demurrage regulations applicable on export traffic re application of The Coal Operators' Association of Western Canada. (See page 1054, 56 B.T.C.)
- *121207 June 23 – Granting licence to Mr. Edwin E. Lindberg, Fort Simpson, N.W.T. under section 10 of the Transport Act. (See page 1055, 56 B.T.C.)

- 121208 June 23 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 5.02 Rossburn Subd., Manitoba.
- 121209 June 23 – Approving changes to the automatic protection at the crossing of the C.P.R. and Main Street at Portage La Prairie, Manitoba, mileage 55.6 Carberry Subd.
- 121210 June 24 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Tannery Road between the Counties of Kings and Hants, N.S. mileage 38.84 Halifax Subd.
- 121211 June 24 – Authorizing the Corporation of the City of Sarnia to construct Vidal Street across and over the C.N.R. in the City of Sarnia, Ontario, mileage 0.41 Point Edward Spur by means of dual overhead bridges to replace existing level crossing.
- 121212 June 24 – Authorizing the City of Brantford, Ontario to improve Gilkinson Street at the crossing of the T.H. & B.R. in the City of Brantford, at mileage 62.93 Waterford Subd.
- 121213 June 24 – Authorizing the City of Hamilton, Ontario to reconstruct and improve the overhead bridge carrying Chatham Street across and over the tracks of the T.H. & B.R., in the City of Hamilton, at mileage 38.85 Waterford Subd.
- 121214 June 27 – Authorizing the C.P.R. to modernize the protection at the crossing of its railway and Richmond Street in the City of London, Ontario, at mileage 0.05 Windsor Subd.
- 121215 June 27 – Authorizing the C.P.R. to install reflectorized crossing signs at the crossing of its railway and the highway at mileage 0.95 of the spur which junctions with the Galt Subd. at mileage 9.13, Province of Ontario.
- 121216 June 27 – Amending Order No. 110278 which authorized the Ontario Department of Highways to widen Highway No. 18 at the crossing of C. & O. R. in the Township of South Gosfield, west of Kingsville, at mileage 29.17 Canadian Subd. No. 1 and authorizing the railway to modernize the automatic protection at said crossing.
- 121217 June 27 – Amending Order No. 116804 which authorized the Township of Albion, Ontario to reconstruct the overhead bridge carrying 20th Side Road across and over the C.P.R. between Lots 20 and 21, in Conc. 6, County of Peel at mileage 27.82 MacTier Subd.

- 121218 June 28 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Gagnon Boulevard, in the Town of St. Felicien, P.Q. mileage 28.83 Roberval Subd.
- 121219 June 28 – Authorizing the County of Renfrew, to relocate County Road No. 21 at the crossing of the C.N.R. west of Beachburg, Ontario, at mileage 74.09 Beachburg Subd.
- 121220 June 28 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Station Street in the Village of la Perade, P.Q. mileage 107.15 Quebec Subd.
- 121221 June 28 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and St. Jacques Road, in St. Anselme, P.Q. mileage 205.99 Monk Subd.
- 121222 June 28 – Authorizing the Quebec Department of Roads to improve St. Dominique Road at the crossing of the C.N.R. in the Municipality of the Parish of St. Joseph-de-Soulanges, County of Soulanges, P.Q. at mileage 31.33 Kingston Subd.
- 121223 June 28 – Granting leave to Consumers' Gas Company to construct a 6.625-inch outside diameter steel natural gas pipe line under the track of the C.N.R. on the road allowance between Lots 110 and 111, west of Holland Landing, in the Township of East Gwillimbury, Ontario, mileage 39.33 Newmarket Subd.
- 121224 June 28 – Dismissing the C.P.R. application for authority to remove the station agent and close the station building at Flesherton, Ontario, mileage 37.7 Owen Sound Subd.
- 121225 June 28 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and highway at mileage 7.69 Expanse Subd., Province of Saskatchewan.
- 121226 June 28 – Authorizing the removal of the speed limitation at the crossing of the T.H. & B.R. and Silver Street (Lincoln County Road No. 21) at mileage 4.35 Dunnville Subd., Ontario.
- 121227 June 28 – Authorizing the C.N.R. to remove the caretaker and the station building at St. Bloi, P.Q. mileage 168.2 Mont Joli Subd.
- 121228 June 28 – Authorizing the removal of the speed limitation at the crossing of the Algoma Central Railway at Fourth Line crossing in the City of Sault Ste. Marie, Ont. mileage 5.66 Sault Ste. Marie Subd.
- 121229 June 29 – Authorizing the Town of Oxbow, Saskatchewan to reconstruct the Municipal Road where it crosses the C.P.R. between the NE¼ of Sec. 22 and the NW¼ of Section 23, Twp. 3, Rge. 2, West 2nd Meridian at mileage 115.20 Estevan Subd.

- 121230 June 29 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 5 in the Town of North Sydney, N.S. mileage 98.08 Sydney Subd.
- 121231 June 29 – Revoking authority of Order No. 100525 which approved the location of the flammable liquid bulk storage facilities of Imperial Oil Limited at Chandler, P.Q. mileage 46.16 Chandler Subd. C.N.R.
- 121232 June 29 – Authorizing the C.N.R. to operate their engines, cars and trains on the Ajax Industrial Lead tracks commencing at mileage 310.29 Kingston Subd. in the Town of Ajax, County of Ontario, and across certain streets.
- 121233 June 29 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at mileage 36.01 Bonnyville Subd., Alberta.
- 121234 June 29 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. at Cartier Yard, mileage 112.54 Cartier Subd., Ont.
- 121235 June 29 – Rescinding authority of Order No. 88020 which approved the proposed location of facilities for the handling and storage of liquefied petroleum gases by W.J. Kent & Company Ltd. at Bathurst, N.B., C.N.R.
- 121236 June 29 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and 52nd St. in the City of Calgary, Alberta, mileage 123.57 Three Hills Subd.
- 121237 June 29 – Approving overhead and side clearances of the C.P.R. at the ship loader on the track serving Selkirk Spruce Mills Ltd. at Donald, B.C. mileage 51.8 Mountain Subd.
- *121238 June 29 – Requiring the C.P.R. to continue to operate trains Nos. 132-133 and 137-138 between Montreal and Ottawa via the Lachute Subd. (See page 1027, 56 B.T.C.)
- *121239 June 29 – Suspending Tariff amendments filed by the C.N.R. and the C.P.R. applying on bulk grain, carloads, for export. (See page 1056, 56 B.T.C.)
- 121240 June 29 – Authorizing changes in rate grouping of certain telephone exchanges by The Bell Telephone Company of Canada.
- 121241 June 29 – Approving the location of proposed flammable liquid bulk storage and transfer facilities of Texaco Canada Limited, at Revelstoke, B.C. near mileage 125.7 Mountain Subd., C.P.R.

- 121242 June 29 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and highway at Calumet, P.Q. mileage 59.68 Lachute Subd.
- 121243 June 30 – Authorizing the City of Waterloo, Ontario to construct a public road across the C.N.R. between King and Caroline Streets, mileage 1.81 Waterloo Subd. (Elmira Branch).
- 121244 June 30 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Township Road, between Conc. 3 and 4, in Lot 21, Township of Albion, County of Peel, Ontario, mileage 45.46 Beeton Subd.
- 121245 June 30 – Approving the changes in the automatic protection at crossing of the C.P.R. and P.T. Highway No. 100 near Fortress, Manitoba, mileage 11.04 La Riviere Subd.
- 121246 June 30 – Approving signal arrangement of the C.N.R. from Zone 10 on the Montreal Subd. to mileage 17 on the Cornwall Subd., P.Q.
- 121247 June 30 – Authorizing the C.P.R. and the C.N.R. to operate through the interlocking at the crossing of their railways at West Tower, mileage 56.6 Carberry Subd. of the C.P.R. and mileages 56.2 Rivers Subd. and 0.4 Gladstone Subd. of the C.N.R. at Portage La Prairie, Manitoba.
- 121248 July 4 – Authorizing the C.N.R. to construct a temporary track diversion to permit construction of a dual subway, in the Municipality of St. Romuald d'Etchemin, County of Levis, P.Q. at mileage 1.25 Bridge Subd.
- 121249 July 4 – Amending Order 121030 which authorized the C.N.R. to temporarily close certain stations in the Province of Ontario.
- 121250 July 4 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under the provisions of the Maritime Freight Rates Act.
- 121251 July 4 – Revoking Orders 87484 and 80042 which approved the location of facilities of Imperial Oil Limited for handling and storage of flammable liquids near the C.P.R. at Carman, Manitoba.
- 121252 July 4 – Approving proposed flammable liquid transfer facilities of Imperial Oil Limited located on the C.N.R. right of way at Lebel-sur-Quevillon, P.Q. near mileage 54.42 Kiask Falls Subd.
- 121253 July 4 – Approving location of proposed flammable liquid tank car and existing tank truck transfer facilities of Imperial Oil Limited at Mannville, Alberta, near mileage 14.5 Vegreville Subd. C.N.R.

- 121254 July 4 – Authorizing the Quebec Central Railway Company to remove the caretaker-agent and the station building at Garthby, P.Q. mileage 47.6 Quebec Subd.
- 121255 July 4 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Macleod Trail, in the City of Calgary, Alberta, mileage 4.42 Macleod Subd.
- 121256 July 5 – Authorizing the C.P.R. to remove the caretaker at Bounty, Sask. mileage 14.7 Kerrobert Subd.
- 121257 July 5 – Authorizing the C.N.R. to remove the station agent and the station building at Lennoxville, P.Q.
- 121258 July 5 – Authorizing the C.P.R. to remove the caretaker at Otterburne, Man. mileage 28.5 Emerson Subd.
- 121259 July 5 – Revoking the requirement of the speed limitation of 10 miles per hour at the crossing of the C.N.R. and St. Georges Street in St. Jerome, P.Q. mileage 73.75 Jonquiere Subd.
- 121260 July 5 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 121261 July 5 – Approving improvements to Wilson Road South at the crossing of the C.N.R. in the City of Oshawa, Ont. mileage 299.58 Kingston Subd.
- 121262 July 5 – Amending Order 120865 which removed the speed limitation at the crossing of the C.N.R. and 50th Street in Vegreville, Alta. mileage 57.12 Vegreville Subd.
- 121263 July 4 – Authorizing the C.N.R. to open for the carriage of traffic that portion of the N.C.C.'s trackage between the Alexandria Subd. of C.N.R. and the Montreal & Ottawa Subd. of the C.P.R. between Station 90 + 25 and point "D" connecting said trackage at mileage 83.5 Montreal & Ottawa Subd. and Point "E" which connects said trackage at station 24 + 32 at mileage 82.9 Montreal & Ottawa Subd. to point "C" and Point "G" which connects said trackage at mileage 73.31 Alexandria Subd. at Point "G" to a point "I", in the City of Ottawa, Ont. and authorizing the C.P.R. to open for carriage of traffic that portion of the N.C.C. trackage between Station 7 + 51 of said trackage to a point "A" connecting at mileage 72.3 Alexandria Subd. of the C.N.R. and Point "E" which connects said trackage at mileage 82.9 Montreal & Ottawa Subd. to point "C", and Point "G" which connects said trackage at mile 73.31 Alexandria Subd. at point "G" to a point "I" in the City of Ottawa.

- 121264 July 5 - Authorizing the C.N.R. to remove the station agent and to appoint a caretaker at Waterville, P.Q.
- 121265 July 5 - Dismissing C.P.R. application for authority to remove the station agent and the station building at Bristol, N.B. mileage 78.1 Shogomoc Subd.
- 121266 July 5 - Authorizing the C.N.R. to remove the station agent at Parkside, Sask. mileage 35.7 Blaine Lake Subd.
- 121267 July 5 - Authorizing the National Capital Commission to install a Centralized Traffic Control System in the Ottawa-Hull area.
- 121268 July 5 - Approving location of the temporary storage and unloading facilities for Diesel fuel oil of the J. Ronaghan Trucking Limited at Grimshaw, Alta. near mileage 65.3 Peace River Subd. N.A.R.
- 121269 July 6 - Authorizing the Ontario Department of Highways to reconstruct and improve the overhead bridge carrying the Queen Elizabeth Way across and over the C.P.R. in the Township of Etobicoke, Ont. at mileage 1.42 Canpa Subd., and authorizing the construction of a temporary overhead bridge to carry the diverted eastward lanes of the Queen Elizabeth Way across and over the C.P.R. and approving clearances of C.P.R. under the overhead bridge at mileage 1.42 Canpa Subd.
- 121270 July 7 - Revoking authority of Order 61964 which approved the location of facilities of McColl-Frontenac Oil Company Limited for the handling of flammable liquids near the C.P.R. at Kingston, Ont.
- 121271 July 7 - Approving Traffic Agreement and Supplements Nos. 1 and 2, between The Bell Telephone Company of Canada and Quebec-Telephone, (Gagnon).
- 121272 July 7 - Approving Traffic Agreement and Supplements Nos. 1 and 2, between The Bell Telephone Company of Canada and Quebec-Telephone (Twin Falls and Wabush).
- 121273 July 7 - Revoking authority of Order 83222 which authorized the location of handling and storage facilities of Automatic Electric (Canada) Ltd. Class 11 inflammable liquids near the C.N.R. at Brockville, Ont.
- 121274 July 8 - Authorizing the Quebec Department of Roads to close the crossing of the C.P.R. and Brigham-Cowansville Road, in the Municipality of Adamsville, P.Q. mileage 122.14 Sherbrooke Subd. and authorizing the construction of an access route across the C.P.R. from Cowansville to the Eastern Townships Autoroute, mileage 122.15 Sherbrooke Subd.

- 121275 July 8 - Amending Order 119056 which authorized the Township of South Algona to reconstruct the Township Road at the crossing of the C.N.R. between Lots 15 and 16, in Concession 10, County of Renfrew, Ont. mileage 74.87 Renfrew Subd.
- 121276 July 8 - Approving tariffs and supplements to tariffs filed by the Grand Falls Central Railway Company Limited under Section 8 of the Maritime Freights Act.
- 121277 July 8 - Revoking authority of Orders No. 79350 and 79700, which approved location of handling and storage facilities of liquefied petroleum gas of Gaspe Gas Utilities Inc. at Grande-Riviere, P.Q. mileage 54.34 Chandler Subd. C.N.R.
- 121278 July 8 - Amending Order 113701 which authorized the Ontario Department of Highways to reconstruct and improve the overhead bridge carrying Highway No. 6 across and over the C.P.R. between Lot 27, Concession 2, and Lot 13, Concession 2, Township of East Flamboro, Ont. at mileage 1.86 Goderich Subd.
- 121279 July 8 - Approving tariffs and supplements to tariffs filed by the C.P.R. and the D.A.R. under the Maritime Freights Rate Act.
- 121280 July 8 - Authorizing the C.P.R. to construct a siding commencing at Station 106 + 70 of the Saskatchewan Avenue Lead to serve the T. Eaton Company of Canada Ltd. across Saskatchewan Ave. in City of St. James, Manitoba.
- 121281 July 11 - Authorizing the Quebec Department of Roads to widen and improve Riviere East Road where it crosses the C.P.R. in the Municipality of Ste. Brigide d'Iberville, County of Iberville, P.Q. at mileage 10.4 Adirondack Subd.
- 121282 July 11 - Authorizing the C.N.R. to relocate a portion of their wye track in the SE¼ of Sec. 5, Twp. 44, Rge. 16, West Third Meridian, in the City of North Battleford, Sask. near mileage 81.37 Langham Subd.
- 121283 July 11 - Revoking authority of Order No. 111192 which approved the location of the handling and storage of flammable liquids facilities of Imperial Oil Ltd. at Orkney, Sask. mileage 83.5 Notukeu Subd. C.P.R.
- *121284 July 11 - Authorizing the C.N.R. to abandon a portion of their main track between mileage 0.00 and 0.15 Simcoe Subd., in the Town of Port Dover, Ont. and authorizing the C.N.R. to relocate their station building between Chapman and Nelson Streets, in the Town of Port Dover, Ont. (See page 1091, 56 B.T.C.)

- 121285 July 11 – Authorizing the C.N.R. to relocate the automatic protection at the crossing of their railway and the Trans Canada Highway near Glasgow, N.S. mileage 3.15 Thorburn Spur.
- 121286 July 11 – Approving tariffs and supplements to tariffs filed by the C.N.R. under section 3 of the Maritime Freight Rates Act.
- 121287 July 11 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from Sparrow Lake Road, mileage 106.47 Newmarket Subd. to mileage 100.66 Newmarket Subd., Ont.
- 121288 July 11 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from mileage 49.86 Drumheller Subd. to mileage 27.48 Sheerness Subd., Alta.
- 121289 July 11 – Authorizing the New York Central Railroad Company to install automatic protection at the crossing of its railway and Highway No. 59 near Tillsonburg, Ont. mileage 82.27 Main Line Subd.
- 121290 July 11 – Authorizing the Township of Vaughan, Ontario to reconstruct McGillivray Sideroad at the crossing of the C.P.R. between Lots 20 and 21, Concession 9, in the Township of Vaughan, Ont. at mileage 15.47 MacTier Subd.
- 121291 July 11 – Authorizing the Quebec Department of Roads to widen and improve l'Anse a Gilles Road (Giasson Road) at the crossing of the C.N.R. in the Municipality of the Parish of Notre-Dame-de-Bon-Secours-de-l'Islet, County of l'Islet, P.Q. at mileage 68.05 Montmagny Subd.
- 121292 July 11 – Approving By-law No. 69 of the C.N.R. re preparation and issuance of tariffs of tolls and rescinding authority of Order No. 117952.
- *121293 July 11 – Authorizing the C.P.R. to publish rates on Cadmium, Metallic, at carload minimum weight of 100,000 pounds not subject to Rule 24 of the Canadian Freight Classification No. 21, from Tadanac, B.C. to a number of destinations in the U.S.A. subject to a released valuation not exceeding 40¢ per lb. (See page 1093, 56 B.T.C.)
- 121294 July 11 – Dismissing C.P.R. application for authority to remove the caretaker and close the station building at Verona, Ont.
- 121295 July 11 – Authorizing the C.N.R. to remove the caretaker and the shelter at Ste. Euphemie, P.Q. mileage 161.3 Monk Subd.
- 121296 July 11 – Authorizing the C.P.R. to remove the station agent and the station building at Pogamasing, Ont. mileage 20.0 Nemegos Subd.

- 121297 July 11 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and the highway in Lot 2, Concession 2, Township of Essa, Ont. at mileage 45.84 MacTier Subd.
- 121298 July 11 – Amending Order 118237 which authorized the C.N.R. to install automatic protection at the crossing of their railway and Upper Middle Road, in the Town of Burlington, Ont. mileage 45.19 Halton Subd.
- 121299 July 11 – Amending Order 118235 which authorized the C.N.R. to install automatic protection at the crossing of their railway and Appleby Line Road, Town of Burlington, Ont. mileage 44.44 Halton Subd.
- 121300 July 11 – Approving C.P.R. route map showing proposed branch line of railway extending northerly from a point on its main line at or near Coniston, Ont. mileage 69.2 Cartier Subd. to a point near Falconbridge, Ont. a distance of approx. 6.6 miles.
- 121301 July 11 – Authorizing the Quebec Department of Roads to widen and improve Lapierre Road at the crossing of the C.N.R. in the Municipality of the Parish of Contrecoeur, County of Vercheres P.Q. at mileage 25.78 Sorel Subd.
- 121302 July 11 – Exempting the C.P.R. from erecting and maintaining fences between certain mileages on its Varcoc Subd., Man.
- 121303 July 11 – Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 26 across the C.N.R. in the NE¼ of Sec. 31, Twp. 45 Rge. 16, West Third Meridian, Sask. mileage 0.19 Hatherleigh Subd.
- 121304 July 11 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Clavet, Sask. mileage 174.63 Watrous Subd.
- 121305 July 11 – Authorizing the Alberta Department of Highways to construct an overhead bridge to carry relocated Highway No. 3 across and over the C.P.R. in the NW¼ of Sec. 10, Twp. 9, Rge. 22, West 4th Meridian, near Coalhurst, at mileage 4.28 Crowsnest Subd.
- 121306 July 12 – Amending Order 117203 which authorized Consumers' Gas Company (Ottawa Gas) to construct a 12 inch low pressure pipeline to be affixed to the overhead bridge carrying Carling Avenue across and over the C.P.R. in the City of Ottawa, Ont. at mileage 1.20 Prescott Subd.

- 121307 July 12 – Authorizing the Quebec Department of Roads to widen and improve Range 7 Road at the crossing of the C.P.R. in the Municipality of Wickham, County of Drummond, P.Q. at mileage 46.95 Drummondville Subd.
- 121308 July 12 – Authorizing the Bell Telephone Company of Canada and Hydro-Quebec to remove or relocate their facilities to permit construction of the overhead bridge to carry Highway No. 8 across and over the C.P.R. at Ayersville, P.Q. mileage 46.11 Lachute Subd.
- 121309 July 12 – Authorizing the City of Montreal, P.Q. to construct a roadway connecting University Street and LaRoute, designated as Lane D, across the C.N.R. on Brennan Street, at mileage 0.97 Harbour Spur.
- 121310 July 12 – Authorizing the National Capital Commission to construct a temporary service road across the C.N.R.'s Freight Shed Lead track in the vicinity of the new Ottawa station, opposite mileage 75.7 Alexandria Subd. Ottawa, Ont.
- 121311 July 12 – Authorizing the Town of St. Felicien, P.Q. to construct a temporary road across the C.N.R. between Lots 4A-North 5A-Range 1, Twp. of Demeules, County of Roberval at mileage 30.04 Roberval Subd.
- 121312 July 12 – Authorizing the C.N.R. to improve the automatic protection at the crossing of their railway and East Road in Riviere Beaudette, P.Q. mileage 43.48 Kingston Subd.
- 121313 July 12 – Approving changes in the automatic protection at the crossing of the C.N.R. and Highway No. 7, City of Guelph, Ont. mileage 32.22 Fergus Subd.
- 121314 July 12 – Approving the changes in the automatic protection at the crossing of the C.N.R. and Gray's Road, City of Hamilton, Ont. mileage 36.97 Grimsby Subd.
- 121315 July 12 – Approving changes in the automatic protection at the crossing of the C.N.R. and Highway No. 8, in McGivney, N.B. mileage 84.90 Napadogan Subd.
- 121316 July 12 – Authorizing the Ontario Department of Highways to widen Highway No. 11 at the crossing of the C.N.R. spur serving J.A. Mathieu Limited, in the District of Rainy River, Ont. at mileage 0.07 of said spur which commences at mileage 85.34 Fort Frances Subd.

- 121317 July 12 – Authorizing the Quebec Department of Roads to improve Chenard Road at the crossing of the C.N.R. in the Municipality of the Parish of St. Pacome, County of Kamouraska, P.Q. mileage 36.00 Montmagny Subd.
- 121318 July 12 – Authorizing the British Columbia Department of Highways to improve sight lines at the crossing of the C.N.R. and Kathlyn Road, at mileage 3.29 Bulkley Subd.
- 121319 July 12 – Authorizing the C.N.R. to relocate and improve the automatic protection at the crossing of their railway and Highway No. 3 at Marriott's Cove, N.S. mileage 50.15 Chester Subd.
- 121320 July 12 – Authorizing the C.N.R. to make changes to the automatic protection at the crossing of their railway and St. Esprit Road in l'Epiphanie, P.Q. mileage 113.20 Joliette Subd.
- 121321 July 12 – Approving changes to C.N.R. automatic protection at the crossing of their railway and Tache Street in St. Pascal, P.Q. mileage 25.49 Montmagny Subd.
- 121322 July 12 – Revoking authority of Order No. 106526 which approved the location of flammable liquid bulk storage facilities of Imperial Oil Ltd. near the C.N.R. at Fort Frances, Ont. mileage 89.14 Fort Frances Subd.
- 121323 July 12 – Exempting the C.P.R. from erecting and maintaining fences on the north side of its right of way Glenboro Subd. between mileage 101.1 and mileage 101.4, Man.
- 121324 July 12 – Exempting the C.P.R. from erecting and maintaining fences on the south side of its Crowsnest Subd. between mileage 62.0 and 63.8, Alta.
- 121325 July 12 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at the first public crossing west of the station at Ste. Claire, P.Q. mileage 198.04 Monk Subd.
- 121326 July 12 – Approving location of temporary crude petroleum loading facilities of Charter Oil Company Limited at Youngstown, Alta. C.N.R.
- 121327 July 12 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway east of the station at Dugald, Manitoba, mileage 237.36 Redditt Subd. (formerly mileage 114.38 Minaki Subd.)
- 121328 July 12 – Prohibiting C.N.R. engines, cars or trains from exceeding a speed of fifty miles per hour over the diamond crossing at the interlocking at mileage 204.93 Watrous Subd., Sask.

- 121329 July 12 – Authorizing the Quebec Department of Roads to construct a Second Range Centre Road at the crossing of the C.N.R. in the Municipality of the Parish of St-Aimé, County of Richelieu, P.Q. mileage 20.70 St-Jude Subd.
- 121330 July 12 – Authorizing the C.P.R. to improve the bridge over the Yamaska River in the Twp. of Shefford, County of Shefford, P.Q. mileage 21.7 Drummondville Subd.
- 121331 July 13 – Approving deviation of the Minnedosa Subd. of the C.P.R. from mileage 2.72 to mileage 7.01, in the Province of Man.
- 121332 July 13 – Authorizing the C.P.R. to construct a bridge to carry its railway over the Portage Diversion Floodway, in Section 32, Twp. 11, Range 7, West Principal Meridian, Man. mileage 60.05 Carberry Subd.
- 121333 July 14 – Authorizing the C.N.R. to relocate the station at Chambly, P.Q. from mileage 45.19 to mile 44.42.
- 121334 July 13 – Approving the changes to the C.P.R. automatic protection at the crossing of its railway and highway (D.A.R.) at mileage 9.20 Kentville Subd. N.S.
- 121335 July 13 – Approving the changes in the automatic protection of the C.N.R. at the crossing of their railway and 9th Line Road, in the Town of Oakville, Ont. mileage 19.25 Oakville Subd.
- 121336 July 13 – Approving changes in the C.P.R. automatic protection at the crossing of its railway (D.A.R.) and the highway in Waterville, N.S. mileage 9.30 Kentville Subd.
- 121337 July 13 – Approving the location of the C.N.R. proposed flammable liquid bulk storage and transfer facilities near their tracks at Point St. Charles Boiler Plant in Montreal, P.Q. near mileage 72.06 St. Hyacinthe Subd.
- 121338 July 13 – Approving C.N.R. side clearances at the loading platform on the siding serving Canyon Creek Sawmills Ltd., near Valemount, B.C. mileage 74.89 Albreda Subd.
- 121339 July 13 – Approving C.P.R. clearances on the siding serving Almonte Flour Mills Limited, at Almonte, Ont. mileage 24.17 Chalk River Subd.
- 121340 July 14 – Approving changes in signals of Quebec North Shore and Labrador Railway Company between mileage 220 and mileage 240; and mileage 340 and mileage 357, Province of Newfoundland.

- 121341 July 14 – Authorizing the City of Galt, Ont. to reconstruct Concession Street crossing of the C.N.R. at mileage 14.92 Fergus Subd. and the track of the Lake Erie and Northern Railway Company at mileage 0.38 Main Line Subd.
- 121342 July 14 – Revoking authority granted to the City of Calgary to widen Edmonton Trail at the crossing of the C.P.R. in the City of Calgary, Alta. in the northwest quarter of Section 35, Twp. 24 Range 1, West Fifth Meridian, at mileage 4.77 Red Deer Sub. and revoking authority to relocate the automatic protection at the said crossing.
- 121343 July 14 – Authorizing the British Columbia Department of Highways to construct a highway along the track of the C.N.R. for a distance of approx. 1,200 feet, near Hansard, B.C. at mileage 99.1 Fraser Subd. and authorizing the Railways to reconstruct the bridge over the Fraser River near Hansard, B.C. at mileage 99.1 Fraser Subd. to provide a vehicular deck to carry said highway and a pedestrian walkway.
- 121344 July 14 – Approving location of flammable liquid storage tank and associated piping of Standard Oil Company of British Columbia Limited, at Revelstoke, B.C. C.P.R.
- 121345 July 14 – Authorizing the C.N.R. to relocate existing reflectorized crossing signs to mileage 4.7 Graham Subd., Ontario.
- 121346 July 14 – Authorizing the Trans-Canada Pipe Lines Ltd. to construct a 34-inch outside diameter steel natural gas pipe line across and under the C.P.R. in the NE¼ of Sec. 19, Twp. 18, Rge. 13, West 3rd. Meridian, in R.M. of Saskatchewan Landing #167, at mileage 15.82 Stewart Valley Subd.
- 121347 July 14 – Authorizing the Twp. of Markham, Ont. to construct a pedestrian underpass under the C.N.R., mileage 17.33 Bala Subd.
- 121348 July 14 – Amending Order 118918 which authorized the construction of C.I.L. Lead No. 1 between the Twps. of Moore and Sombra, Ont., C.N.R.
- 121349 July 14 – Dismissing the application of the N.A.R. to close the station at Donnelly, Alta., mileage 270.2 Smoky Subd.
- 121350 July 14 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Pakenham, Ont., mileage 32.7 Chalk River Subd.
- 121351 July 14 – Authorizing the C.N.R. to construct a pedestrian underpass under their right of way and tracks at Port Union, Ont., mileage 317.3 Kingston Subd.

- 121352 July 14 – Authorizing the C.N.R. to construct a lead track serving the Ford Automotive Assembly Plant near Talbotville, commencing at mileage 2.59 Chatham Subd. and crossing the highway at grade at mileage 1.93 and at mileage 3.21, both in the Twp. of Southwold, Ont.
- 121353 July 14 – Authorizing the Ontario Department of Highways to reconstruct and improve the subway carrying the Twp. Road across and under the tracks of The Lake Erie & Northern Rly. Co., Twp. of Townsend, Co. of Norfolk, mileage 37.37 Port Dover to Galt Subd.; authorizing the C.P.R. to construct a temporary deviation of its railway and authorizing the Ont. Dept. of Highways to construct a temporary detour road at grade across the said deviated track of the C.P.R.
- 121354 July 15 – Authorizing the C.N.R. to widen and maintain a pedestrian walkway along the westerly side of the roadway on the overhead bridge carrying Brock Street South over their tracks, Town of Whitby, Ont., mileage 304.9 Kingston Subd. (formerly Oshawa Subd.) and authorizing the Town of Whitby to widen and maintain the pedestrian walkways along the westerly side of the approaches to the overhead bridge.
- 121355 July 15 – Authorizing the C.P.R. to construct a second track at grade across Mayook Road, near Wardner, B.C., mileage 77.75 Cranbrook Subd.
- 121356 July 14 – Authorizing the Sask. Dept. of Highways and Transportation to construct an overhead bridge to carry Highway 10 across and over the tracks of the C.N.R., City of Melville, Sask., mileage 0.89 Watrous Subd.
- 121357 July 14 – Authorizing the Quebec Dept. of Roads to improve Montee Est where it crosses at grade the track of the C.P.R., Mun. of La Conception, Labelle Co., mileage 73.06 Ste. Agathe Subd.
- 121358 July 14 – Requiring the C.P.R. to relocate the protection at the crossing of the highway and the railway, mileage 42.07 Okanagan Subd. (formerly mileage 42.40), B.C.
- 121359 July 14 – Authorizing the Sask. Dept. of Highways and Transportation to widen Highway 5 where it crosses the right of way and track of the C.N.R., City of North Battleford, Sask., mileage 0.25 of the railway industrial spur which commences at mileage 81.30 Langham Subd.
- 121360 July 14 – Authorizing the Mun. of Metro. Toronto, to construct a subway carrying Kipling Ave. across and under the tracks of the C.N.R.,

Twp. of Etobicoke, Co. of York, Ont., mileage 11.07 Weston Subd., to eliminate the existing level crossing; authorizing the C.N.R. to construct a temporary deviation of their railway; authorizing the Mun. of Metro. Toronto to construct a temporary detour road to carry diverted Kipling Ave. across the right of way and the permanent and deviated tracks of the C.N.R. and authorizing The Consumers' Gas Co. to install a steel natural gas pipeline across and under the right of way and the permanent and temporary tracks of the C.N.R., mileage 11.07 Weston Subd.

- 121361 July 15 – Authorizing the Quebec Dept. of Roads to widen Highway 3 where it crosses the track of the N.Y.C.R. Co., mileage 53.7 Adirondack Jct. and Malone Subd.
- 121362 July 15 – Authorizing the C.N.R. to operate on the subway structure carrying their tracks across and over the Martingrove Road, Twp. of Etobicoke, Ont., mileage 11.73 Weston Subd.
- 121363 July 15 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Rly. Co. under the M.F.R.A.; rescinding authority of Orders 96951, 105003, 106179 and 109005, approving tolls published in Tariff No. 21-B, C.T.C. (F) No. 1205 and in Supplements thereto.
- 121364 July 15 – Authorizing the Ont. Dept. of Highways to construct an overhead bridge to carry Highway 2 across and over the right of ways and tracks of the C.N.R., mileage 261.87 Kingston Subd. (formerly Oshawa Subd.) and C.P.R., mileage 132.82 Belleville Subd., east of Cobourg, Twp. of Hamilton.
- 121365 July 15 – Authorizing the R.M. of Bayne No. 371, Sask. to construct the Municipal road at grade across the C.N.R., mileage 33.26 Cudworth Subd.
- 121366 July 15 – Allocating the costs reserved by Order 120119 which authorized the Ont. Dept. of Highways to reconstruct and improve the existing subway carrying Highway 4 under the C.P.R., Durham, Twp. of Glenelg, Co. of Grey, Ont., mileage 15.93 Walkerton Subd.
- 121367 July 15 – Approving the changes to the automatic protection at the crossing of the C.N.R. and Morningside Ave., east of Scarborough, Ont., mileage 320.41 Kingston Subd.
- 121368 July 15 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway, near Carmel, Sask., mileage 10.33 Aberdeen Subd.

- 121369 July 15 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Cummer Ave., Toronto, Twp. of North York, Ont.
- 121370 July 15 – Amending Order 113342 which authorized the C.N.R. to install improved protection at the crossing of their railway and Mill Street, Windsor, P.Q., mileage 61.28 Sherbrooke Subd.
- 121371 July 15 – Amending Order 113718 which authorized the installation of automatic protection at the crossing of the highway and the C.N.R., M.D. of Rocky View No. 44, Alta., mileage 106.12 Three Hills Subd.
- 121372 July 15 – Amending Order 113328 which authorized the widening of the Municipal Road where it crosses the C.N.R. at Conrich, Alta., mileage 117.84 Three Hills Subd. and the installation of automatic protection at the said crossing.
- 121373 July 15 – Requiring the N.Y.C.R. to install automatic protection at the crossing of its railway and Norfolk County Road No. 3, Twp. of Townsend, Ont., mileage 66.05 N.F. Main Line Subd.
- 121374 July 15 – Requiring the N.Y.C.R. to install automatic protection at the crossing of its railway and Princess Avenue, City of St. Thomas, Ont., mileage N.F. 115.41 Main Line Subd.
- 121375 July 15 – Authorizing the Highways Department of the Province of Manitoba to widen Provincial Road No. 256 where it crosses the tracks of the C.N.R. at mileage 60.13 Cromer Subd.
- 121376 July 15 – Authorizing the Quebec Dept. of Roads to widen Comte Road where it crosses the track of the Q.C.R., Mun. of St-Camille-de-Lellis Parish, Bellechasse Co., mileage 54.56 Chaudiere Subd.
- 121377 July 15 – Authorizing the Sask. Dept. of Highways and Transportation to construct Highway 13 across the right of way and track of the C.P.R., mileage 63.63 Assiniboia Subd.
- 121378 July 15 – Approving Supplement No. 1 to Traffic Agreement of the Bell Telephone Company of Canada and Le Telephone Manseau.
- 121379 July 15 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R., Essa, Ont., mileage 58.86 MacTier Subd.
- 121380 July 15 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and l'Islet-St. Adalbert Road, l'Isletville, P.Q., mileage 64.60 Montmagny Subd.

- 121381 July 15 – Approving the changes to the automatic protection at the crossing of the C.N.R. and Old Weston Road, Mun. of Metro. Toronto, Ont., mileage 0.3 (C.P.R.) MacTier Subd. and mileage 4.98 (C.N.R.) Weston Subd.
- 121382 July 15 – Approving the changes to the automatic protection at crossing of the C.N.R. and 112th Ave. between 82nd and 84th Streets, City of Edmonton, Alberta, mileage 1.35 Edmonton East Terminals Subd.
- 121383 July 15 – Approving the changes to the automatic protection at crossing of the C.N.R. and Middle River Road, Middle River, N.S., mileage 51.65 Chester Subd.
- 121384 July 15 – Approving the changes to the automatic protection at crossing of the C.N.R. and 66th Street, City of Edmonton, Alta., mileage 3.18 Edmonton East Terminal Subd.
- 121385 July 15 – Approving the changes to the automatic protection at crossing of the C.N.R. and Highway 602, near Emo, Ont., mileage 108.07 Fort Frances Subd.
- 121386 July 18 – Authorizing the C.N.R. to operate on the subway structure carrying their tracks across and over Brooksbank Avenue, City of North Vancouver, B.C., mileage 5.61 Burrard Harbour Line.
- 121387 July 18 – Authorizing the C.N.R. to operate on the subway structure carrying their tracks across and over the Banff-Jasper Hwy., Jasper Townsite, Alta., mileage 0.9 Albreda Subd.
- 121388 July 18 – Authorizing the C.N.R. to operate on the subway structure carrying their tracks across and over Erie St., City of Stratford, Ont., mileage 0.58 Goderich Subd.
- 121389 July 18 – Granting the Mun. of Metro. Toronto leave to prosecute the C.N.R. for an alleged violation of General Order 0-26 under section 455 of the Railway Act.
- 121390 July 18 – Authorizing the C.N.R. to operate over the siding serving Alba Sands Ltd. across the public road at mileage 0.27 and Ash St. at mileage 0.58 of the said siding, B.C., which commences at mileage 75.36 Albreda Subd.
- 121391 July 18 – Authorizing the C.N.R. to close, within the limits of their right of way, the crossing of their railway and the public road at mileage 95.11 Val d'Or Subd., P.Q.
- 121392 July 18 – Authorizing the C.P.R. to construct Spur No. 1 across Tecumseh St.; Givins St. (closed) and Yoe St. (closed) commencing

at mileage 87.8 Galt Subd. and to relocate Spur No. 2, serving Standard Tube and T.I. Limited where it crosses Tecumseh Street, City of Woodstock, Ont.

- 121393 July 18 – Requiring the C.P.R. to install automatic protection at crossing of its railway and Township Road, Twp. of North Dumfries, Ont., mileage 60.90 Galt Subd.
- 121394 July 18 – Requiring the C. & O. Rly. Co. to install automatic protection at the crossing of its railway and Division St., Town of Kingsville, Ont., mileage 30.26 No. 1 Subd.
- 121395 July 18 – Authorizing the C.N.R. to close, within the limits of their right of way, the existing crossings of the highway and their railway, in the M. D. of Starland No. 47, Alta., at mileages 32.41 and 33.22 Drumheller Subd.
- 121396 July 18 – Requiring the C.N.R. to install protection at crossings of 4th Line Road, mileage 33.54 Guelph and 3rd Line Road, mileage 34.25 Guelph Subd., Twp. of Esquesing, Ont.
- *121397 July 18 – Authorizing the C.N.R. to abandon that portion of the Alexandria Subd., City of Ottawa, between points "G" and "H" respectively, Ont. (See page 1094, 56 B.T.C.)
- 121398 July 18 – Amending Order 109982 which authorized the City of Vancouver to remove the pedestrian subway under the tracks of the C.P.R. connecting Columbia Street with North Vancouver Ferry Wharf in North Vancouver, B.C.
- 121399 July 18 – Requiring the C.N.R. to install protection at crossing of their railway and 4th Line Road, Twp. of Eramosa, Ont., mileage 42.19 Guelph Subd.
- 121400 July 18 – Authorizing the C.N.R. to operate on the bridge at mileage 24.4 Brazeau Subd., Alta.
- 121401 July 18 – Authorizing the C.N.R. to operate on the subway structure carrying their tracks across and over Norfolk, Street, City of Guelph, Co. of Wellington, Ont., mileage 48.98 Guelph Subd.
- 121402 July 18 – Authorizing the C.N.R. to operate on the 19-bent ballast deck pile trestle at mileage 80.7 Sangudo Subd., Alta.
- 121403 July 18 – Authorizing the C.N.R. to operate on the bridge carrying their tracks across and over Swift Creek, mileage 74.2 Albreda Subd., B.C.
- 121404 July 18 – Approving Supplement No. 4 to Traffic Agreement between the Bell Telephone Company of Canada and Le Telephone de Chenier.

- 121405 July 18 – Approving Supplement No. 2 to Traffic Agreement between Bell Telephone Company of Canada and La Cie de Telephone de Saint-Nazaire.
- 121406 July 18 – Approving Supplement No. 1 to Traffic Agreement between the Bell Telephone Company of Canada and Syndicat de Telephone Paroissial de Villeroy.
- 121407 July 18 – Approving Supplement No. 6 to Traffic Agreement between the Bell Telephone Company of Canada and Telephone St-Germain de Drummond Limitee.
- 121408 July 18 – Approving clearances on the siding serving Trent Valley Sand and Gravel Company, commencing at mileage 115.74 Belleville Subd., near Brighton, Ont., C.P.R.
- 121409 July 18 – Requiring the C.N.R. to install protection at the crossing of their railway and Benoit Road, Mun. of Mont St. Hilaire, P.Q., mileage 50.84 St. Hyacinthe Subd.
- 121410 July 18 – Approving Supplement No. 6 to Traffic Agreement between the Bell Telephone Company of Canada and Le Telephone Bon Conseil Inc.
- 121411 July 18 – Exempting the C.N.R., Toronto, Hamilton and Buffalo Rly. Co., Dominion Foundries and Steel Limited from complying with the conditions contained in subsection 2 of section 156 of the Railway Act, with respect to an agreement for the operation of portion of the T.H. & B.R. and C.N.R. in the City of Hamilton, Ont.
- 121412 July 18 – Recommending sanction for the agreement between the C.N.R., T.H. & B.R. and Dominion Foundries and Steel Limited, permitting the Dominion Foundries and Steel Limited to use a portion of their railways in the City of Hamilton, Ont.
- 121413 July 18 – Exempting the T.H. & B.R. and Dominion Foundries and Steel Ltd. from complying with the conditions contained in subsection 2 of section 156 of the Railway Act, with respect to an agreement for the operation of a portion of the T.H. & B.R. in the City of Hamilton, Ont.
- 121414 July 18 – Recommending sanction for the agreement between the T.H. & B.R. and Dominion Foundries and Steel Ltd., permitting the Dominion Foundries and Steel Ltd. to use a portion of its railway in the City of Hamilton, Ont.
- 121415 July 18 – Approving the location of Shell Canada Ltd. flammable liquid bulk storage and transfer facilities, Prince George, B.C., near mileage 145.8 Fraser Subd., C.N.R.

- *121416 July 18 – Approving subsidy payments on bulk grain, carloads to Eastern Canadian ports for export moving under “At-and-East” export rates. (See page 1095, 56 B.T.C.)
- 121417 July 19 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R., Stratford, Ont., mileage 3.27 Newton Subd.
- 121418 July 19 – Approving Supplement No. 4 to Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Telephone Locale Halifax Sud-Ouest.
- 121419 July 19 – Approving Revised Appendix “A” and Supplements Nos. 7, 8 and 9 to Traffic Agreement between the Bell Telephone Company of Canada and Telecommunications Richelieu Limitee (Division de Sorel).
- 121420 July 19 – Approving Supplement No. 2 to Traffic Agreement between the Bell Telephone Company of Canada and Syndicat Cooperatif de Telephone de St-Jean Baptiste Anse St. Jean.
- 121421 July 19 – Approving Supplement No. 1 to Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Telephone de St-Athanase.
- 121422 July 19 – Approving Supplement No. 3 to Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Telephone de St-Ephrem d’Upton.
- 121423 July 19 – Approving Supplement No. 3 to Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Telephone St-Pie de Guire.
- 121424 July 19 – Approving Supplement No. 3 to Traffic Agreement between the Bell Telephone Company of Canada and Le Telephone de Stoke (1963) Inc.
- 121425 July 19 – Requiring the C.N.R. to install improved protection at crossing of their railway and Forced Road, Jockvale, Ont., mileage 5.73 Smiths Falls Subd.
- 121426 July 19 – Approving the location of the portable station building proposed to be erected at Leipzig Station, Sask., mileage 9.8 Kelfield Subd., C.P.R.
- 121427 July 19 – Approving the location of the portable station building proposed to be erected at Handel, Sask., mileage 18.6 Kelfield Subd., C.P.R.
- 121428 July 19 – Approving Service Station Contract between the Bell Telephone Company of Canada and Domtar Newsprint Limited.

- 121429 July 19 – Approving Supplement No. 1 which cancels Service Station Contract between the Bell Telephone Company of Canada and the St. Lawrence Corporation Ltd.
- 121430 July 19 – Exempting the T.H. & B.R. from complying with the conditions of subsection 2 of section 156 of the Railway Act, with respect to an agreement between the L.E. & N.R. for operation of a portion of the T.H. & B.R. for a distance of 18.0 miles, between Brantford and Waterford, Ont.
- 121431 July 19 – Recommending sanction for the agreement between the T.H. & B.R. and Lake Erie and Northern Rly. Co. for use of that portion of the T.H. & B.R. between Brantford and Waterford, Ont., a distance of 18.0 miles.
- 121432 July 19 – Authorizing the C.N.R. to operate on the temporary diversion of their railway in the vicinity of mileage 129.0 Joliette Subd., City of Montreal, P.Q.
- 121433 July 20 – Revoking the Authority to locate the flammable liquid storage facilities of Canadian Oil Companies Ltd. at Vauxhall, Alta., C.P.R.
- 121434 July 20 – Revoking the authority to locate the flammable liquid bulk storage facilities of the N.A.R. at Fairview, Alta.
- 121435 July 20 – Revoking the authority to locate the flammable liquid bulk storage facilities of the C.N.R., at Plumas, Man.
- 121436 July 20 – Authorizing the C.P.R. to construct a deviation of its Emerson Subd. across Prairie Grove Road, City of St. Vital, Man., mileage 7.70 Emerson Subd. and the deviation of its Emerson Subd. across the relocated Municipal Road, R.M. of Ritchot, Man., mileage 8.60 Emerson Subd. and the construction of a temporary deviation of its Emerson Subd. across the Municipal Road, R.M. of Ritchot, Man., mileage 8.74 Emerson Subd.
- 121437 July 20 – Authorizing the Quebec Dept. of Roads to construct a public road across the right of way and track of the C.P.R., Farnham East, P.Q., mileage 4.29 Newport Subd.
- 121438 July 20 – Requiring the C.P.R. to install automatic protection at crossing of its railway and Denis Drolet Road, Parish of Ancienne-Lorette, P.Q., mileage 149.09 Quebec Subd.
- 121439 July 20 – Granting authority to Interprovincial Pipe Line Company to revise its crude oil pipe line under the right of way and track of the C.N.R., Twp. of West Nissouri, Co. of Middlesex, Ont., mile 18.43 Thorndale Subd. and Twp. of Sarnia, Co. of Lambton, Ont., mileage 54.3 Strathroy Subd.

- 121440 July 20 – Authorizing Quebec Dept. of Roads to widen Riviere Chicot Road North where it crosses the track of the C.P.R., Parish of St. Cuthbert, Co. of Berthier, P.Q., mileage 47.29 Trois-Rivieres Subd.
- 121441 July 20 – Authorizing the C.N.R. to operate on the temporary diversion of their railway in the vicinity of the subway at mileage 27.27 Cascapedia Subd., P.Q.
- 121442 July 20 – Authorizing the Q.C.R. to construct a culvert and fill to replace the existing bridge at mileage 0.14 Lower Yard Spur, City of Sherbrooke, P.Q.
- 121443 July 20 – Revoking the authority to locate the flammable liquid bulk storage facilities of British American Oil Company Ltd., Scandia, Alta., C.P.R.
- 121444 July 20 – Amending Order 120189 which authorized the widening of 42nd Ave. Southeast where it crosses the tracks of the C.P.R. City of Calgary, Alta., mileage 0.09 Nitrogen Spur, commencing at mileage 2.00 Macleod Subd.
- 121445 July 20 – Authorizing the C.P.R. to construct bridges to carry the deviation of its Emerson Subd. over the Seine River at mileage 7.6 Emerson Subd., and over the Red River Floodway at mileage 8.4 Emerson Subd., Man.
- 121446 July 20 – Authorizing the C.N.R. to operate under the overhead bridge, Co. of Wheatland No. 16, Alta., mileage 66.23 Drumheller Subd.
- 121447 July 20 – Authorizing the removal of the speed limitation at crossing of the N.A.R. and the highway, mileage 72.17 Lac la Biche Subd., Alta.
- 121448 July 20 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway, being the second crossing east of Spruce Grove, Alta., mileage 17.99 Edson Subd.
- 121449 July 20 – Authorizing the C.P.R. to remove the caretaker at Portreeve, Sask., mileage 63.9 Empress Subd.
- 121450 July 20 – Approving the less than standard side clearances on the track of the C.N.R. serving Canadian Potteries Ltd., St. Johns, P.Q., mileage 22.31 Rouses Point Subd.
- 121451 July 20 – Approving the less than standard side clearances on the track of the C.N.R. serving Transit Shed No. 33 Pier A1 of National Harbours Board, Ocean Terminals, Halifax, N.S.

121452 July 20 – Approving tariffs filed by the Bell Telephone Company of Canada.

121453 July 20 – Approving tariffs filed by the Bell Telephone Company of Canada.

Canada The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the Canadian National Railways for an Order authorizing them to abandon operation of that portion of their Hemmingford Subdivision between St. Remi (Mileage 6.52) and Hemmingford (Mileage 21.29) a total distance of 14.77 miles, all in the Province of Quebec.

BEFORE:

J. E. DUMONTIER,
 J. M. WOODARD,

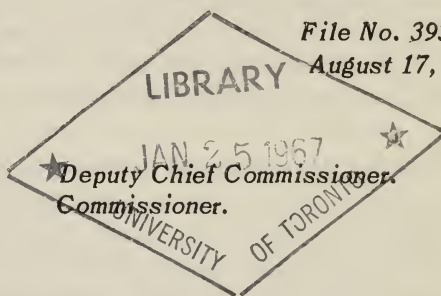
APPEARANCES:

H. J. G. PYE
 and
 ROLAND BOUDREAU
 I. WATSON, M.P.,

ALISTAIR SOMERVILLE, M.P.P.,

HEARD AT:

Hemmingford, P.Q., May 26, 1966.



File No. 39310.7
 August 17, 1966

for Canadian National Railways.

*Chateauguay-Huntingdon-Laprairie,
 representing opponents.*

Huntingdon, representing opponents.

JUDGMENT

WOODARD, C.

On August 3, 1962, Canadian National Railways, hereinafter referred to as the "Railway", applied to the Board, under Section 168 of The Railway Act, for an Order granting it leave to abandon operation of that portion of the Hemmingford Subdivision between St. Remi (Mile 6.52) and Hemmingford (end of steel Mile 21.29), a total distance of 14.77 miles, all in the Province of Quebec.

Subsequent to this application, members of the Board's Engineering and Operating Staffs inspected the line concerned and their reports are on file with the Board.

On October 15, 1963, after the application had been set down for hearing, the Railway asked that the hearing be postponed. Notices of postponement were sent to all interested parties.

On December 15, 1965, the Railway re-applied for authority to abandon this line and asked for early consideration of the application. The Board's District Engineer and Operating Inspector made further surveys of this line and these reports also are on file with the Board. Following these investigations, and upon receiving opposition to the application from shippers and residents of the area the matter was set down for hearing, and was heard in Hemmingford on May 26, 1966.

Description of Line:

The portion of the Hemmingford Subdivision under consideration runs in a northerly direction from Hemmingford to St. Remi, crossing the C.N.R. Valleyfield Subdivision at Barrington, an intermediate point on the Hemmingford Subdivision. The area served is rich farm land, generally devoted to what is termed as "muck farming" and apple growing. The area south of Hemmingford is largely orchard land.

From evidence adduced at the hearing, and supported by the reports of the Board's Inspectors, it is apparent that the line under consideration is in very poor shape, with light steel, badly deteriorated pit run gravel ballast, poor drainage and bridges and culverts in only fair condition. Train speed is restricted to 15 miles per hour. The area is well served by paved all-weather roads. Should the application be granted the only buildings to be abandoned and demolished or sold are at Hemmingford, and consist of one station with dwelling and three sheds, in poor condition. Track maintenance is performed by a section gang with headquarters at St. Martine on the Messina Subdivision, and as this gang also does work on other territory, the abandonment would affect possibly only one sectionman, who could exercise seniority elsewhere. Similarly, abandonment would affect the agent-operator at Hemmingford, who would exercise his seniority, possibly at his former location at Cantic.

Alternative Shipping Points:

Rail service on this subdivision is on an "as and when required basis" by a way-freight service which at present operates into St. Remi. The only points on the line which are presently served are St. Michel, Sherrington and Hemmingford, and in the last two years no traffic has been handled at St. Michel. It is the Railway's contention that any future traffic from St. Michel could be handled from St. Remi, only 5.3 miles away. Likewise service could be given to Sherrington from Barrington on the Valleyfield Subdivision, a distance of 3.4 miles, and to Hemmingford from Barrington, a distance of 6.0 miles. The rail service referred to is carload freight, as express and less-than-carload freight is handled on the highway. In the event of abandonment, and thus the closing of Hemmingford

agency, an "on-hand" agent would be appointed at Hemmingford to continue to handle express and L.C.L. under a Master Agency concept.

Financial Position of the Railway:

Evidence adduced by the Railway as to revenues and expenses on the line were based on the study year of 1965. In this period, system revenues both on-line and off-line amounted to \$11,570, and with the addition of \$700 in revenues accruing from telegrams, money orders and demurrage, and \$141 from leases, totalled \$12,411. During the study year 46 carloads were handled on the line. The System avoidable expenses, on-line and off-line, amounted to \$46,714 for the same period, leaving an annual operating loss of \$34,303.

It was freely admitted by the Railway that maintenance of this line over the past several years had been so limited that presently the roadbed and trackage were so deteriorated that large sums of money would have to be spent immediately to upgrade it even sufficiently for the present volume of traffic. It was stated that in 1964, \$10,469, and in 1965, \$10,863, was spent on maintenance. This is far below normal maintenance costs for a branch line such as this one, which usually runs about \$2,000 per mile or in the area of \$30,000 per year for this line. It was the opinion of Mr. Olynyk, Area Manager, that to return this line to a safe operating condition if the application for abandonment is denied, would require an immediate expenditure of \$58,000 this year, plus an estimated \$40,000 per year for the next three years; all this in addition to the \$2,000 per mile per annum normal maintenance mentioned above. I am prepared to accept the above estimate of the money required to restore the line to a safe operating level, even to a permissive speed of 15 miles per hour, inasmuch as the Board's Engineer, in his latest report, while remarking on the noticeable deterioration of the line since the time of his earlier inspection in November 1962, estimated that it would require about \$350,000 over the next five years to restore the line.

Opposition to the Application:

Mr. I. Watson, M.P., Chateauguay-Huntingdon-Laprairie, acting for those opposing the application, called witnesses.

Mr. Jasmin, Manager of Terres Noires Limitée, a vegetable processing factory, stated that most of his shipping and receiving was carried out at Barrington. While facilities there left something to be desired, he stated that they served his purpose. Mr. Jasmin gave evidence of the development of the black earth or "muck" farming and stated that 12,000 acres are now under cultivation with at least double that amount available for development. He also referred to the consideration being given to the development of a project in the Sherrington area for the purpose of processing garbage into fertilizer. However, his information on this was by no means definite and he admitted that he had no knowledge of

where such a processing plant would be located, but presumed it would be on one of the Railway lines in the area. In cross-examination by myself, Mr. Jasmin admitted that, as his warehouses were at Sherrington, it would be of no benefit to him to have his produce delivered at Hemmingford rather than at Barrington. In fact, he stated, it would require an additional 8-mile haul.

Mr. Walter Smith, Mayor of Hemmingford, spoke briefly of the expanding vegetable farming and apple growing in the area and was of the opinion that, being only 40 miles from Montreal, Hemmingford was a logical location for small industry and that a rail line to the Town would enhance the prospects of such industry locating there.

Mr. Henri Legault, Manager of Marcel Fortin Limited, an oil and feed business, with a private siding at Hemmingford, admitted that all his oil shipments were by truck, and most of the feed business handled by truck as well, but stated that he did receive four or five carloads of bran or soya each year. Abandonment of the line would result in his having to truck these shipments from Barrington, thus adding to the cost to the buyer.

Mr. Wm. F. Beatty — apple grower and packer from Covey Hill Road, located about 7 miles southwest of Hemmingford, stated in evidence that his company packed and shipped about 400,000 cases of apples per year. Of this total, approximately 30,000 cases, or 30 carloads were shipped by rail, the balance moving by highway truck. He went on to say that his shipping point was Delson, on the C.P.R., a distance of 30 miles from his plant. He gave two reasons for this, one being that much of his shipping was to Saint John, New Brunswick, for export, and the other, that because of a delayed settlement of a claim against the Canadian National Railways, he had withdrawn his business from that Company.

Mr. Beatty's concern about shipping out of Barrington was that there was no agent on there who could check on refrigerator cars to see that temperatures were right for loading. This he felt was essential for the safe shipping of as perishable a commodity as apples. A later witness, Mr. J.L. Cote of the Quebec Apple Growers Co-Op, supported Mr. Beatty on this point. Mr. Beatty stated that as his differences with C.N. had now been cleared up, he would now be prepared to ship from Hemmingford, but only if the agent were kept on. If the agent were removed, Hemmingford would then be no better than Barrington is at present.

Summary and Conclusions:

As mentioned earlier in this Judgment it is the Railway's contention that based on operations in 1965 it was losing in excess of \$34,000 in handling traffic amounting to only 46 carloads. In addition to this the Railway estimated it would cost in the neighbourhood of \$100,000 per year for at least three years to rehabilitate the line to a point where it would be safe for normal operation at rea-

sonably slow speeds. This, as I have stated, is confirmed by the observations of the Board's Engineer.

It is the Board's practice in rendering judgments on applications such as this one, to closely scrutinize the various items of operating expenses submitted in evidence by the Railway, making such reductions and adjustments as are felt justified. However, as I feel in this case that greater weight should be given to the capital outlay that would be required to bring this line up to branch line operating standards, I will go into no detail as to the adjustments which could be made in the area of operating expenses other than to state that even with such reductions, the net annual operating loss would be considerable for the amount of traffic offered.

Support for the retention of the line was largely based on the prospects for increased vegetable and apple growing in the area and on the hopes that small industries could be persuaded to locate in or around the area served by this portion of the Hemmingford Subdivision. It is true that some producers had agreed to use Hemmingford as a shipping or receiving point, but only under conditions which would give them improved or speedier service than they are now getting at alternate points.

The Board in arriving at a decision in the application before it, must weigh the loss and inconvenience to the public consequent upon abandonment against the burden that continued operation of the railway line involved would impose upon the Railway Company.

In the application before it, I cannot see where abandonment of this line would cause any great loss to anyone using the line. Some inconvenience would be felt, as is always the case when the last or only rail connection is removed from a town. However, I am of the view that such loss and inconvenience is far outweighed by the annual operating loss and the necessary capital outlay for line improvement that would accrue to the Railway should the line be retained.

I will therefore, grant the application of Canadian National Railways for leave to abandon operation of that portion of its Hemmingford Subdivision between St. Remi (Mile 6.52) and Hemmingford (end of steel Mile 21.29), a total distance of 14.77 miles. Such abandonment may take place any time after September 30, 1966, upon 30 days' prior notice filed with the Board, and to be posted in the Railway's station at Hemmingford, and at suitable locations at St. Michel and Sherrington.

The Canadian National Railways shall advise the Board that abandonment has taken place within one week of such abandonment.

An Order will be issued accordingly.

(Signed) JOHN M. WOODARD.

I CONCUR:

(Signed) J.E. DUMONTIER.

OTTAWA, August 17, 1966.

ORDER NO. 121747

WEDNESDAY, THE 17TH DAY OF
AUGUST, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
J.M. WOODARD,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways, hereinafter called the "Applicants", for an Order authorizing abandonment of operation of that portion of their Hemmingford Subdivision between St. Remi (mileage 6.52) and Hemmingford (mileage 21.29), all in the Province of Quebec, a total distance of 14.77 miles:

File No. 39310.7.

UPON hearing the application at a sittings of the Board held at Hemmingford, Quebec, on May 26, 1966, in the presence of Counsel for the Canadian National Railways, Mr. I. Watson, M.P., and Mr. Alistair Somerville, M.P.P., representing the opponents, and upon reading the submissions filed —
IT IS HEREBY ORDERED AS FOLLOWS:

1. The Applicants are authorized to abandon operation of that portion of their Hemmingford Subdivision between St. Remi (mileage 6.52) and Hemmingford (end of steel mile 21.29), all in the Province of Quebec, total distance of 14.77 miles.
2. The said abandonment of operation shall take place any time after September 30, 1966, on not less than thirty days' prior notice filed with the Board and posted in the Applicants' station at Hemmingford and at suitable locations at St. Michel and Sherrington.
3. The Applicants shall advise the Board that abandonment of operation has taken place within one week of such abandonment.

(SGD) J.E. DUMONTIER
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

RELATIVE à la requête des chemins de fer Nationaux du Canada en vue d'obtenir une ordonnance qui les autoriserait à abandonner l'exploitation de la partie de leur subdivision d'Hemmingford comprise entre Saint-Rémi (point milliaire 6.52) et Hemmingford (point milliaire 21.29), soit une distance totale de 14.77 milles, le tout dans la province de Québec.

*Dossier n° 39310.7
le 17 août 1966*

DEVANT:

J.-E. DUMONTIER
J.M. WOODARD

*commissaire en chef suppléant
commissaire*

ONT COMPARU:

H.J.G. PYE
et
ROLAND BOUDREAU }
I. WATSON, député

*pour les chemins de fer Nationaux
du Canada*

*Châteauguay-Huntingdon-Laprairie,
représentant les opposants
député provincial d'Huntingdon,
représentant les opposants*

ALISTAIR SOMERVILLE,

AUDIENCE TENUE À:

Hemmingford (P.Q.), le 26 mai 1966.

JUGEMENT

WOODARD, C.

Le 3 août 1962, les chemins de fer Nationaux du Canada, ci-après dénommés "Chemin de fer", ont présenté à la Commission, en vertu de l'article 168 de la Loi sur les chemins de fer, une requête en vue d'obtenir une ordonnance leur accordant la permission d'abandonner l'exploitation de la partie de leur subdivision d'Hemmingford comprise entre Saint-Rémi (point milliaire 6.52) et Hemmingford (extrémité de la voie ferrée, point milliaire 21.29), soit une distance totale de 14.77 milles, le tout dans la province de Québec.

A la suite de cette requête, des membres du personnel du Génie et du personnel de l'Exploitation de la Commission ont inspecté la ligne en question et leurs rapports ont été versés aux dossiers de la Commission.

Le 15 octobre 1963, après qu'il eut été décidé d'entendre la requête, le Chemin de fer a demandé que l'audition de la requête soit remise à plus tard. Des avis de remise à plus tard furent envoyés à tous les intéressés.

Le 15 décembre 1965, le Chemin de fer a présenté une nouvelle requête en vue d'obtenir l'autorisation d'abandonner cette ligne et a demandé que la requête soit entendue sous peu. L'ingénieur régional et l'inspecteur de l'Exploitation de la Commission firent de nouveaux relevés de la ligne et leurs rapports furent aussi versés aux dossiers de la Commission. A la suite de ces recherches et de l'opposition reçue de la part des expéditeurs et des habitants de la région, il a été décidé de tenir une audience et la requête a été entendue à Hemmingford le 26 mai 1966.

Description de la ligne:

La partie à l'étude de la subdivision d'Hemmingford court en direction nord, d'Hemmingford à Saint-Rémi, croisant la subdivision de Valleyfield du N.-C. à Barrington, point intermédiaire sur la subdivision d'Hemmingford. La région desservie est une région de riche terre agricole, consacrée généralement à ce qu'on appelle la culture maraîchère et à la pomiculture. La région au sud d'Hemmingford comprend surtout des terres en vergers.

D'après les témoignages entendus à l'audience et confirmés par les rapports des inspecteurs de la Commission, il est évident que la ligne en question est en très mauvais état, rails légers, ballast détérioré de gravier tout venant, mauvais drainage et ponts et ponceaux seulement en état passable. La vitesse des trains y est limitée à 15 milles à l'heure. La région est bien desservie par des routes toutes saisons, revêtues en dur. Si la requête est accordée, les seuls bâtiments à abandonner et à démolir ou à vendre se trouvent à Hemmingford et consistent en une gare avec logement et trois hangars, en mauvais état. La voie est entretenue par une équipe de cantonniers dont le point d'attache se trouve à Sainte-Martine, dans la subdivision de Massena, et comme cette équipe travaille aussi dans l'autre territoire, l'abandon de la ligne ne toucherait peut-être qu'un membre de l'équipe, qui pourrait se prévaloir de son droit d'ancienneté ailleurs. De même, l'abandon toucherait l'agent-télégraphiste à Hemmingford qui pourrait se prévaloir de son droit d'ancienneté, peut-être à son ancien poste à Cantic.

Autres points d'expédition:

Le service ferroviaire de cette subdivision se fait "selon les besoins" par un train de marchandises omnibus qui pénètre dans Saint-Rémi. Les seuls points qui sont actuellement desservis sont Saint-Michel, Sherrington et Hemmingford, et depuis deux ans il n'y a plus de trafic à Saint-Michel. Le Chemin de fer prétend que la manutention de tout trafic éventuel de Saint-Michel pourrait se faire à Saint-Rémi, qui se trouve à seulement 5.3 milles. De même, le

service de Sherrington pourrait être assuré de Barrington dans la subdivision de Valleyfield, distance de 3.4 milles, et celui d'Hemmingford, de Barrington, distance de 6.0 milles. Le service ferroviaire mentionné est le service par wagoonnées, les messageries et les marchandises de détail étant transportées par la route. Dans le cas d'abandon, et par suite, de la fermeture de l'agence d'Hemmingford, un agent "sur place" serait nommé à Hemmingford pour continuer de s'occuper des messageries et des marchandises de détail dans un régime d'agence centrale.

Situation financière du Chemin de fer:

Les dépositions du Chemin de fer concernant les recettes et les dépenses de cette ligne sont fondées sur une étude de l'année 1965. Dans cette période, les recettes du réseau tant sur la ligne qu'en dehors de la ligne se sont élevées à \$11,570, et en ajoutant les \$700 de recettes provenant des télégrammes, des mandats et de l'estarie, et les \$141 pour location à bail, elles ont atteint la somme de \$12,411 en tout. Au cours de l'année étudiée, la ligne a transporté 46 wagoonnées. Les dépenses évitables du réseau, sur la ligne et en dehors de la ligne, se sont élevées à \$46,714 pendant cette même période, laissant une perte d'exploitation annuelle de \$34,303.

Le Chemin de fer a volontiers admis que l'entretien de cette ligne depuis plusieurs années est tellement restreint qu'actuellement la couche de ballast et les voies ferrées sont tellement avariées qu'il faudrait immédiatement dépenser de fortes sommes pour la mettre dans un état convenable même pour le volume actuel du trafic. Il a été déclaré qu'en 1964, \$10,469, et en 1965, \$10,863, ont été dépensés pour l'entretien. Ces frais d'entretien sont bien inférieurs à la normale pour un embranchement comme celui-là, frais qui s'élèvent d'ordinaire à environ \$2,000 par mille, ce qui serait d'environ \$30,000 par année pour cette ligne. M. Olynyk, gérant régional, croit que, pour remettre cette ligne dans un état qui permettrait de l'exploiter en toute sécurité dans le cas où la requête d'abandon serait rejetée, il faudrait dépenser \$58,000 dès cette année et une somme estimative de \$40,000 par année pendant les trois prochaines années; le tout en plus des \$2,000 par mille pour l'entretien annuel normal susmentionné. Je suis prêt à accepter l'estimation ci-dessus des sommes requises pour remettre la ligne dans un état permettant de l'exploiter en toute sécurité, même à la vitesse restreinte de 15 milles à l'heure, d'autant plus que l'ingénieur de la Commission, dans son dernier rapport, alors qu'il soulignait la détérioration sensible de la ligne depuis son inspection antérieure en novembre 1962, estimait qu'il en coûterait environ \$350,000 au cours des cinq prochaines années pour restaurer la ligne.

Opposition à la requête:

M. I. Watson, député de Châteauguay-Huntingdon-Laprairie, agissant au nom des opposants, a appelé des témoins.

56 B.T.C.

M. Jasmin, gérant de Terres Noires Limitée, usine de traitement des légumes, a déclaré que l'expédition et la réception de la majeure partie de ses produits se faisaient à Barrington. Bien que les installations laissent à désirer, il a affirmé qu'elles répondent à ses besoins. M. Jasmin a fait une déposition sur la mise en valeur de la terre noire ou l'exploitation agricole des marécages (muck farming) et a déclaré que 12,000 acres sont maintenant en culture et qu'il reste encore au moins le double de cette étendue à mettre en valeur. Il a aussi mentionné qu'il était question d'établir dans la région de Sherrington une installation pour la transformation des ordures ménagères en engrais. Cependant, ses renseignements à ce sujet n'étaient en aucune façon bien précis et il a admis ne pas savoir où cette usine de transformation serait située; toutefois, il suppose que ce serait sur l'une des lignes de chemin de fer de la région. Contre-interrogé par moi-même, M. Jasmin a admis qu'à cause du fait que ses entrepôts se trouvent à Sherrington, il n'aurait pas avantage à faire livrer ses produits à Hemmingford plutôt qu'à Barrington. En fait, a-t-il déclaré, cela demanderait un parcours supplémentaire de 8 milles.

M. Walter Smith, maire d'Hemmingford, a parlé brièvement de l'expansion de la culture maraîchère et de la pomiculture dans cette région. Il s'est dit d'avis qu'Hemmingford, qui n'est qu'à 40 milles de Montréal, était logiquement un endroit propice à l'établissement de petites industries et qu'une ligne ferroviaire augmenterait les chances d'établissement de petites industries à cet endroit.

M. Henri Legault, gérant de Marcel Fortin Limitée, commerce de produits pétroliers et d'aliments pour bestiaux, qui a un embranchement particulier à Hemmingford, a admis que toutes ses expéditions de produits pétroliers se faisaient par camion et que le camion était utilisé aussi pour la majeure partie de son commerce d'aliments pour bestiaux; toutefois, il a déclaré qu'il a reçu chaque année quatre ou cinq wagonnées de son ou de soja. L'abandon de la ligne l'obligerait à faire venir ces expéditions par camion à partir de Barrington, ce qui en augmenterait le coût pour l'acheteur.

M. Wm.F. Beatty, producteur et emballeur de pommes, du chemin Covey Hill, situé à environ 7 milles au sud-ouest d'Hemmingford, a déclaré dans sa déposition que sa compagnie emballait et expédiait environ 400,000 caisses de pommes par année. De ce total, environ 30,000 caisses, soit 30 wagonnées, sont expédiées par chemin de fer, le reliquat étant transporté par camion. Il a ajouté que son point d'expédition se trouvait à Delson, sur la ligne du Pacifique-Canadien, à une distance de 30 milles de son installation. Il a donné deux raisons pour cela; l'une c'est, que la plupart de ses expéditions se font vers Saint-Jean, Nouveau-Brunswick, pour l'exportation, et l'autre, c'est qu'il ne fait plus affaires avec les chemins de fer Nationaux du Canada, à cause du retard que cette compagnie a apporté à régler une réclamation qu'il avait présentée.

La raison que M. Beatty avait de ne pas expédier de Barrington, c'est qu'il n'y avait pas d'agent à cet endroit pour vérifier si les températures des wagons réfrigérés étaient celles qui convenaient au chargement. Il juge que cette vérification est indispensable au transport sûr d'une denrée aussi périssable que les pommes. Un autre témoin, M. J.-L. Côté, de la Co-Op des pomiculteurs du Québec, a corroboré la déposition de M. Beatty sur ce point. M. Beatty a déclaré que, vu que son malentendu avec le National-Canadien avait maintenant été dissipé, il serait prêt à faire ses expéditions d'Hemmingford, mais seulement si l'agent y est gardé. Si l'agent y était enlevé, Hemmingford ne vaudrait pas mieux que Barrington à l'heure actuelle.

Résumé et conclusions:

Comme il a été mentionné plus haut dans le présent jugement, le Chemin de fer prétend, en se fondant sur l'exploitation de 1965, qu'il perd plus de \$34,000 lorsque le trafic n'est que de 46 wagoonnées. En plus de subir cette perte, le Chemin de fer estime qu'il lui en coûterait environ \$100,000 par année pendant au moins trois ans pour restaurer la ligne au point où elle ne représenterait pas de danger pour une exploitation normale à des vitesses relativement faibles. Les observations de l'ingénieur de la Commission confirment, comme je l'ai dit, cette assertion.

C'est la pratique de la Commission, lorsqu'elle rend des jugements dans le cas de requêtes du genre de celle-ci, d'examiner minutieusement les divers postes de dépenses présentés par le Chemin de fer dans sa déposition et d'opérer les réductions et les redressements qu'elle croit justifiés. Cependant, comme je crois que dans la présente cause il faille donner plus d'importance aux immobilisations qui s'imposeraient pour ramener cette ligne aux normes d'exploitation exigées d'un embranchement, je n'étudierai pas dans le détail les redressements qui pourraient être effectués dans le domaine des dépenses d'exploitation. Je me bornerai à affirmer que, même avec ces réductions, la perte d'exploitation annuelle nette serait considérable par rapport à la quantité de trafic offert.

Les arguments en faveur de la rétention de la ligne sont en grande partie fondés sur les perspectives d'une augmentation de la production de légumes et de pommes dans la région et sur l'espoir que de petites industries pourraient être persuadées de s'établir dans la région desservie par ce tronçon de la subdivision d'Hemmingford, ou dans le voisinage. Il est vrai que certains producteurs s'étaient engagés à se servir d'Hemmingford comme point d'expédition ou de réception mais seulement à des conditions qui leur assureraient un service amélioré ou un service plus rapide que celui qu'ils obtiennent aux autres points.

La Commission doit, en arrivant à une décision au sujet de la requête qu'elle a devant elle, comparer la perte ou les inconvénients que subirait le

public par suite de l'abandon et le fardeau qu'imposerait au Chemin de fer la poursuite de l'exploitation de la ligne en question.

Dans la requête qui est devant la Commission, je ne puis voir comment l'abandon de cette ligne pourrait causer de grandes pertes à ses usagers. Ils en ressentiraient des inconvénients, comme c'est toujours le cas lorsque le dernier ou l'unique raccordement ferroviaire d'une ville est enlevé. Cependant, je suis d'avis que la perte annuelle d'exploitation pour le Chemin de fer et les immobilisations qu'il lui faudrait faire pour l'amélioration de cette ligne si elle n'était pas abandonnée l'emportent de beaucoup sur les pertes et les inconvénients pour les usagers.

J'admets donc la requête qu'ont présentée les chemins de fer Nationaux du Canada en vue d'obtenir la permission d'abandonner l'exploitation de la partie de leur subdivision d'Hemmingford comprise entre Saint-Rémi (point milliaire 6.52) et Hemmingford (extrémité de la voie ferrée, point milliaire 21.29), soit une distance totale de 14.77 milles. Cet abandon pourra avoir lieu n'importe quand après le 30 septembre 1966, après un préavis de 30 jours déposé auprès de la Commission, devant être affiché dans la gare du chemin de fer à Hemmingford et en des endroits convenables à Saint-Michel et à Sherrington.

Les chemins de fer Nationaux du Canada devront aviser la Commission de cet abandon, dans le délai d'une semaine après qu'il aura eu lieu.

Une ordonnance sera rendue en conséquence.

(Signé) JOHN M. WOODARD

J'AGRÉE:

(Signé) J.-E. DUMONTIER

Ottawa, le 17 août 1966.

ORDONNANCE N° 121747

MERCREDI, LE 17 AOÛT 1966

J.-E. DUMONTIER,
commissaire en chef suppléant
J.M. WOODARD,
commissaire.

RELATIVE à la requête des chemins de fer Nationaux du Canada, ci-après dénommés "Requérants", en vue d'obtenir une ordonnance autorisant l'abandon de l'exploitation de la partie de leur subdivision d'Hemmingford comprise entre Saint-Rémi (point milliaire 6.52) et Hemmingford (point milliaire 21.29), le tout dans la province de Québec, soit une distance totale de 14.77 milles:

Dossier n° 39310.7

APRÈS audition de la requête à une séance de la Commission tenue à Hemmingford (P.Q.) le 26 mai 1966 en présence des avocats des chemins de fer Nationaux du Canada, et de MM. I. Watson, député, et Alistair Somerville, député provincial, qui représentent les opposants, et après lecture des pièces déposées — —

IL EST PAR LES PRÉSENTES ORDONNÉ CE QUI SUIT:

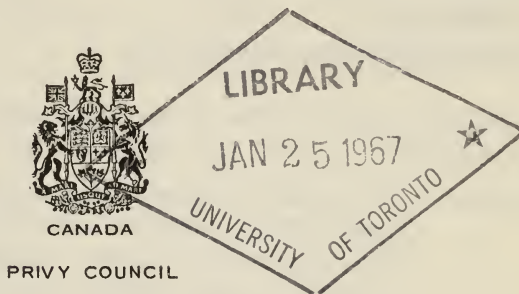
1. Les Requérants sont autorisés à abandonner l'exploitation de la partie de leur subdivision d'Hemmingford comprise entre Saint-Rémi (point milliaire 6.52) et Hemmingford (extrémité de la voie ferrée, point milliaire 21.29), le tout dans la province de Québec, soit une distance totale de 14.77 milles.
2. Ledit abandon d'exploitation aura lieu n'importe quand après le 30 septembre 1966, après un préavis d'au moins trente jours déposé auprès de la Commission et affiché dans la gare des Requérants à Hemmingford et en des endroits convenables à Saint-Michel et Sherrington.
3. Les Requérants devront aviser la Commission de cet abandon d'exploitation, dans un délai d'une semaine après qu'il aura eu lieu.

Le Commissaire en chef suppléant,
J.E. DUMONTIER

Canada
**The Board of
Transport Commissioners for Canada**

Judgments, Orders, Regulations and Rulings

P.C. 1966-1519



AT THE GOVERNMENT HOUSE AT OTTAWA
WEDNESDAY, the 10th day of AUGUST, 1966
PRESENT:

HIS EXCELLENCY
THE GOVERNOR GENERAL IN COUNCIL.

His Excellency the Governor General in Council hereby denies and dismisses the Petition made by Industrial Wire and Cable Company Limited to the Governor in Council pursuant to section 53 of the Railway Act for an Order to vary or rescind the Decision of the Board of Transport Commissioners for Canada dated January 13, 1964, No. 113071 in regard to the application of the Company for a declaration that the purchases by The Bell Telephone Company of Canada of the shares of Northern Electric Company Limited are contrary to the provisions of the statute in respect of Bell Telephone, or, in the alternative, for an Order that the matter be referred to the Supreme Court of Canada.

CERTIFIED TO BE A TRUE COPY
R.G. Robertson
CLERK OF THE PRIVY COUNCIL

ORDER NO. 121541

TUESDAY, THE 2ND DAY OF
AUGUST, A.D. 1966.

IN THE MATTER OF *Vote 84a*
of the Supplementary Estimates (A)
1966-67:

ROD. KERR, Q.C.,
Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.

File No. 48771.3

WHEREAS *Vote No. 84a* of the Supplementary Estimates (A) for the fiscal year ending March 31, 1967, is as follows:

Vote 84a – To provide for balance of payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada in respect of the period April 1, 1965, to March 31, 1966, payable to said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by the said Order..... \$600,000

AND WHEREAS the Board advised said companies, by letter dated June 23, 1966, that the deadline for receipt of claims for the period ended March 31, 1966, was July 31, 1966.

AND WHEREAS the deadline has now passed and the Board has determined that the total balance of claims of said companies for the period ended March 31, 1966, is \$555,958.15 as more particularly set out hereunder.

AND WHEREAS seven-twelfths of the said vote has been authorized for payment by Appropriation Act No. 7, 1966.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

Payments in respect of claims for the period ended March 31, 1966, shall now be made to the companies and in the amounts set out in column (b) hereunder:

	(a) Amount of Claim	(b) Amount of Payment
(1) Canadian Pacific Railway Company	\$321,459.34	\$202,371.00
(2) Canadian National Railways	191,908.75	120,814.00
(3) Northern Alberta Railways	16,745.21	10,541.00
(4) Algoma Central Railway Company	7,746.21	4,876.00

	(a) <u>Amount of Claim</u>	(b) <u>Amount of Payment</u>
(5) Midland Railway Company of Manitoba	5,826.16	3,667.00
(6) Toronto, Hamilton and Buffalo Railway Company	4,426.77	2,786.00
(7) Chesapeake & Ohio Railway Company	3,230.88	2,033.00
(8) New York Central System	2,891.60	1,820.00
(9) Canada and Gulf Terminal Railway	1,101.36	693.00
(10) Great Northern Railway Company	462.27	291.00
(11) Napierville Junction Railway Company	159.60	100.00
	<u>\$555,958.15</u>	<u>\$349,992.00</u>

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121577

MONDAY, THE 8TH DAY OF
AUGUST, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways, hereinafter called the "Applicants", for leave to abandon that portion of their Alexandria Subdivision from mileage 76.3, in the vicinity of Alta Vista Drive, to mileage 78.40, in the vicinity of Rideau Street, all in the City of Ottawa, Province of Ontario, as shown on Plan No. 7-84D-1, dated May 24, 1966, on file with the Board under file No. 39310.151:

UPON reading the submissions filed —

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Applicants are authorized to abandon that portion of their Alexandria Subdivision from mileage 76.3, in the vicinity of Alta Vista Drive, to mileage 78.40, in the vicinity of Rideau Street, all in the City of Ottawa, Province of Ontario, as shown on the said plan on file with the Board under file No. 39310.151.

2. The Applicants shall advise the Board that abandonment of operation has taken place within one week of such abandonment.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121732

WEDNESDAY, THE 17TH DAY OF
AUGUST, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.

A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of The Blue Water Bridge Authority, hereinafter called the "Applicant", under section 326 of the Railway Act, for approval of a resolution dated June 15, 1966, adopted by the Board of Commissioners on the said date, authorizing the Secretary to prepare and issue tariffs of the tolls to be charged by the said Authority, and to submit the same to, and file the same with, the Board:

File No. 36795

IT IS HEREBY ORDERED AS FOLLOWS:

The said resolution of the Applicant adopted on June 15, 1966, on file with the Board under file No. 36795, is approved.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121733

WEDNESDAY, THE 17TH DAY OF
AUGUST, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the National Capital Commission, on behalf of the Canadian Pacific Railway Company, hereinafter called the "Applicant", for authority to abandon that portion of the M & O Subdivision between mileage 84.35 and mileage 86.8, in the Province of Ontario:

File No. 39309.83

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicant is authorized to abandon that portion of the M & O Subdivision between mileage 84.35 and mileage 86.8, in the Province of Ontario.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121818

WEDNESDAY, THE 24TH DAY OF
AUGUST, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of the Canadian Freight Association under Part III of General Order T-1, for approval of Supplement No. 34 to Canadian Freight Classification No. 21, C.T.C.(F) No. 1681, on file with the Board under file No. 49084.34:

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 34 to Canadian Freight Classification No. 21, C.T.C. (F) No. 1681, on file with the Board under file No. 49084.34, is approved.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 121844

MONDAY, THE 29TH DAY OF
AUGUST, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Cumberland Railway Company, hereinafter called the "Applicant Company", for an Order authorizing the abandonment of the spur track from Summit Yard, serving No. 18 Colliery of the Dominion Coal Company, at New Waterford, in the Province of Nova Scotia, approximately three-quarters of a mile in length:

File No. 37830.26.

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicant Company is authorized to abandon the spur track from Summit Yard, serving No. 18 Colliery of the Dominion Coal Company, at New Waterford, in the Province of Nova Scotia.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, JUNE, 1966.

	<i>Accidents</i>	<i>Killed</i>	<i>Injured</i>
Railway Accidents	278	16	293
Level Crossing Accidents.....	29	8	35
	<u>307</u>	<u>24</u>	<u>328</u>

	<i>Killed</i>	<i>Injured</i>
Passengers.....	—	74
Employees	5	213
Others.....	19	41
	<u>24</u>	<u>328</u>

) Of the 29 accidents at Highway Crossings, 20 occurred where standard railway crossing signs are located, 9 where additional forms of protection are in use, 21 after Sunrise and 8 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 121454 July 21 - Approving the general location of C.P.R.'s branch line of railway, mileage 70.25 Burstall Subd., (Pashley-North Easterly Branch), near Fox Valley, Sask.
- 121455 July 21 - Approving the location of the C.P.R.'s branch line of railway, mileage 70.25 Burstall Subd., (Pashley-North Easterly Branch), near Fox Valley, Sask. and authorizing the C.P.R. to carry the said branch line of railway at grade across public roads.
- 121456 July 21 - Revoking the authority of Order No. 77814, to locate the flammable liquid bulk storage facilities of Madawaska Corp. Ltd., at Causapscal, P.Q., C.N.R.
- 121457 July 21 - Approving the location of Texaco Canada Ltd. proposed flammable liquid bulk storage and transfer facilities at The Pas, Man., near mileage 87.35 Turnberry Subd., C.N.R.
- 121458 July 21 - Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R., at New Hamburg, Ont., mileage 73.67 Guelph Subd.
- 121459 July 21 - Authorizing the C.P.R. to construct an overhead bridge carrying Elgin St. across and over its track, Town of Bowmanville, Ont., mileage 163.99 Belleville Subd.
- *121460 July 21 - Suspending tariff items in C.N.R., C.P.R., D.A.R., and C.N.R. Tariffs, et al, re proposed demurrage regulations on export traffic. (The Coal Operator's Assoc. of Western Canada). (See page 1100, 56 B.T.C.)
- 121461 July 21 - Approving the location of C.P.R.'s branch line of railway commencing at mileage 69.2 Cartier Subd., Twp. of Falconbridge, near the Town of Falconbridge, Ont., approximately 6.6 miles in length.
- 121462 July 21 - Authorizing the British Columbia Department of Highways to construct a temporary public road across the C.P.R. near Genelle, mileage 8.91 Rossland Subd.
- 121463 July 21 - Approving tariffs filed by The Bell Telephone Company of Canada.
- 121464 July 21 - Authorizing the Metro. Corp. of Greater Winnipeg to construct the highway across the C.P.R. at mileage 6.8 La Riviere Subd., and the C.N.R. at mileage 1.58 Canada Cement Lead Town of Tuxedo, Man.

- 121465 July 22 – Authorizing the Town of Acton, Ont. to improve the sight lines at the crossing of the C.N.R. and Eastern Ave., mileage 35.48 Guelph Subd.
- 121466 July 22 – Approving the location of Imperial Oil Ltd. flammable liquid bulk storage and transfer facilities at Mont Laurier, P.Q., near mileage 137.93 Ste. Agathe Subd., C.P.R.
- 121467 July 27 – Amending Order 116818 which authorized the C.P.R. to install automatic protection at crossing of its railway and Essex County Road No. 17, Elmstead, Co. of Essex, Ont., mileage 101.03 Windsor Subd.
- 121468 July 22 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Provincial Highway No. 331, being the second public crossing west of Newton, Man., mileage 45.94 Rivers Subd.
- 121469 July 22 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Highway No. 18, being the second crossing west of Bienfait, Sask., mileage 86.37 Lampman Subd.
- 121470 July 25 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121471 July 25 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121472 July 25 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121473 July 25 – Approving tariffs filed by C.N. Telecommunications.
- 121474 July 25 – Approving the location of Imperial Oil Ltd. proposed office building at its bulk plant in Stonewall, Man., mileage 18.0 Arborg Subd., C.P.R.
- 121475 July 25 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Sinclair St., Cobourg, Ont., mileage 264.91 Kingston Subd.
- 121476 July 25 – Authorizing the removal of the speed limitation at crossing of the highway and C.P.R., near Idlesleigh, Alta., mileage 64.82 Bassano Subd.
- 121477 July 25 – Authorizing the removal of the speed limitation at crossing of the highway and C.P.R., Empress, Alta., mileage 0.90 Bassano Subd.
- 121478 July 27 – Amending Order 113314 which authorized the Essex Terminal Rly. Co. to install automatic protection at crossing of its railway and Essex County Road 2, Twp. of Sandwich West, Co. of Essex, Ont., mileage 14.40 Main Line Subd.

- 121479 July 27 – Amending Order 113311 which authorized the C. & O. Rly. Co. to install automatic protection at crossing of its railway and Essex County Road 9, New Canaan, Ont., mileage 15.41 No. 1 Subd.
- 121480 July 28 – Authorizing the National Capital Commission to construct two track connections between the C.N.R. Beachburg Subd. and C.P.R. Prescott Subd., City of Ottawa, Ont.
- 121481 July 28 – Authorizing the Alberta Department of Highways to construct an overhead bridge carrying relocated Highway 12 across and over the C.P.R., mileage 62.68 Lacombe Subd.
- 121482 July 28 – Authorizing the C.N.R. to remove the caretaker at Red Willow, Alta., mileage 40.2 Stettler Subd.
- 121483 July 28 – Granting the Mun. of Metro. Toronto leave to prosecute the C.P.R. for an alleged violation of General Order 0-26.
- 121484 July 28 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R., mileage 114.47 Keewatin Subd., Man.
- 121485 July 28 – Authorizing the Quebec Department of Roads to improve the highway where it crosses the C.N.R., Parish of Notre Dame des Prairies, mileage 98.7 Joliette Subd.
- 121486 July 28 – Authorizing the removal of the speed limitation at crossing of Highway 41 and C.N.R., Napanee, Ont., mileage 199.07 Kingston Subd.
- 121487 July 28 – Amending Order 102291 which authorized the C. & O. Rly. Co. to install automatic protection at crossing of its railway and Walker Road, north of Harrow, Ont., mileage 19.2 No. 1 Subd.
- 121488 July 28 – Amending Order 114240 which authorized the N.Y.C.R. to install automatic protection at crossing of its railway and Windsor Suburban Roads Commission Road No. 5SA, Twp. of Sandwich, Ont., mileage 219.27 N.F. Main Line Subd.
- 121489 July 28 – Amending Order 117795 which authorized the C.P.R. to install automatic protection at crossing of its railway and Essex County Road No. 8, Twp. of Maidstone, Ont., mileage 97.73 Windsor Subd.
- 121490 July 28 – Amending Order 108732 re allocating the cost of maintenance and operation of improved protection at crossing of the C.N.R. and Tecumseh Road, immediately west of Puce, Ont.

- 121491 July 28 – Approving the construction of a crude oil pipe line across and over the C.N.R., on trusses, mileage 15.32 Dartmouth Subd., N.S.
- 121492 July 28 – Approving supplements to Traffic Agreements between The Bell Telephone Company of Canada and various connecting companies.
- 121493 July 28 – Approving Supplements to Traffic Agreements between The Bell Telephone Company of Canada and various connecting companies.
- 121494 July 28 – Approving Revised Appendix "A" to Traffic Agreement between The Bell Telephone Co. of Canada and Telephone du Nord de Quebec Ltée (Division de Val d'Or).
- 121495 July 28 – Approving Supplements to Traffic Agreements between The Bell Telephone Company of Canada and various connecting companies.
- 121496 July 28 – Approving the location of Imperial Oil Ltd. proposed additional flammable liquid bulk storage and existing transfer facilities, Cudworth, Sask., near mileage 54.73 Cudworth Subd. C.N.R.
- 121497 July 28 – Authorizing the C.N.R. to temporary close certain stations in the Province of Ont., during the annual vacation period of the Agents.
- 121498 July 29 – Authorizing the British Columbia Department of Highways to construct Sherstobitoff Subd. Road across the G.N.R., mileage 151.43 Spokane Subd.
- 121499 July 29 – Authorizing the C.N.R. to operate over the siding, serving U.F.A. Co-Op Ltd. across 41st St., City of Camrose, Alta., opposite mileage 47.9 Camrose Subd.
- 121500 July 29 – Authorizing the Quebec Department of Roads to widen the highway where it crosses the C.N.R., Mun. of St-Cajetan d'Armagh, mileage 171.74 Monk Subd.
- 121501 July 29 – Approving the less than standard side clearances on the siding serving Christie, Brown & Co. Ltd., which commences at mileage 2.07 Red Deer Subd., City of Calgary, Alta., C.P.R.
- 121502 July 29 – Authorizing the Alberta Department of Highways to close Highway 2 where it crosses the C.N.R., Mun. Dist. of Sturgeon, mileage 24.8 Athabasca Subd.

- 121503 July 29 – Rescinding Orders 26687 and 79221 re protection at crossing of the C.N.R. and Main St., Vars, Ont., mileage 60.87 Alexandria Subd.
- 121504 July 29 – Authorizing the C.N.R. to open for the carriage of traffic an industrial spur track, commencing at mileage 97.74 Springhill Subd., serving Westmorland Chemical Industrial Park, near Dorchester, Co. of Westmorland, N.B.
- 121505 July 29 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Lorne Ave., Stratford, Ont., mileage 1.33 Thorndale Subd.
- 121506 July 29 – Approving the location of Texaco Canada Ltd. proposed flammable liquid bulk storage and transfer facilities at Parry Sound, Ont., near mileage 1.46 Depot Harbour Subd., C.N.R.
- 121507 July 29 – Approving a route map showing the general location of the proposed branch line of railway of the C.P.R., mileage 46.9 Red Deer Subd., in vicinity of Didsbury, Alta.
- 121508 July 29 – Authorizing the C.N.R. to open for carriage of traffic the spur track from Portage du Fort, commencing at mileage 59.32 Beachburg Subd. and ending at Consolidated Pontiac Inc. plant, Twp. of Litchfield, Co. of Pontiac, P.Q.
- 121509 July 29 – Amending Order 118172 which authorized the installation of automatic protection at crossing of the C.N.R. and Blvd. de la Cité des Jeunes, St. Polycarpe, P.Q., mileage 3.61 Alexandria Subd.
- 121510 July 29 – Amending Order 115333 re allocation of cost of removal and relocation of facilities of British Columbia Hydro and Power Authority and British Columbia Telephone Co. to permit the British Columbia Department of Highways to reconstruct the overhead bridge carrying the highway across and over the Esquimalt & Nanaimo Rly., mileage 59.5 Victoria Subd.
- 121511 July 29 – Amending Order 115250 re allocation of cost of removal or relocation of facilities of the Man. Telephone System and Man. Hydro to permit the Manitoba Department of Public Works to construct a subway to carry Hwy. 10 across and under the C.N.R., Town of The Pas, mileage 0.39 Wekusko Subd.
- 121512 July 29 – Authorizing the New Brunswick Department of Public Works to install protection at crossing of the C.N.R. and Hwy. 340, Janeville, N.B., mileage 15.12 Caraquet Subd.

- 121513 July 29 – Amending Order 115597 which authorized the widening of 50th Ave. S.E. where it crosses the C.N.R., City of Calgary, Alta. mileage 0.55 Calgary Freight Terminal Line and the installation of automatic protection at the said crossing.
- 121514 July 29 – Authorizing the City of Outremont and the Town of Mount Royal to construct an overhead bridge to carry Rockland Road across and over the C.P.R., mileage 49.40 Adirondack Subd. and mileage 0.45 Outremont Subd., P.Q.
- 121515 July 29 – Amending Order 121122 which authorized the installation of automatic protection at crossing of the C.N.R. and the highway being the first public crossing east of Marengo Stn., R.M. of Milton No. 292, Sask., mileage 30.64 Oyen Subd.
- 121516 July 29 – Authorizing the installation of protection at crossing of the Cumberland Rly. Co. and Connaught Ave., Town of Glace Bay, N.S., mileage 0.25 No. 26 Colliery Spur, off mileage 12.15 Main Line Subd.
- 121517 July 29 – Authorizing the Quebec Department of Roads to construct an extension of Choquette St. across and under the C.N.R. by means of a subway, City of St. Hyacinthe, mileage 41.55 St. Hyacinthe Subd.
- 121518 July 29 – Approving changes to the automatic protection at crossing of C.N.R. and Kipling Ave., Twp. of Etobicoke, Ont., mileage 11.07 Weston Subd.
- 121519 July 29 – Approving tariffs and supplements to tariffs filed by the C.N.R. under the provisions of the M.F.R.A.
- 121520 July 29 – Authorizing the N.C.C. on behalf of the C.N.R. to operate between mileages 82.5 and 84.8 M. & O. Subd. of the C.P.R., City of Ottawa, Ont.
- 121521 July 29 – Authorizing the N.C.C. on behalf of the C.N.R. & C.P.R. to operate over the connecting track between mileage 3.21 Prescott Subd. (C.P.R.) and mileage 4.85 Beachburg Subd., (C.N.R.), City of Ottawa, Ont.
- 121522 July 29 – Authorizing the National Capital Commission to relocate the main track of the C.P.R.'s Carleton Place Subd. across Moodie Drive, Twp. of Nepean, Ont.
- 121523 July 29 – Authorizing the National Capital Commission on behalf of the C.P.R. to operate over the connecting track east of its Prescott Subd. and north of the N.C.C. Walkley Line, City of Ottawa, Ont.

- 121524 July 29 – Authorizing the National Capital Commission on behalf of the C.P.R. to operate between mileages 0.0 and 5.55 Walkley Line of the N.C.C., City of Ottawa, Ont.
- 121525 July 29 – Authorizing the N.C.C. on behalf of the C.P.R. to operate between mileages 0.75 and 11.6 Beachburg Subd., of the C.N.R., City of Ottawa, Ont.
- 121526 July 29 – Authorizing the N.C.C. on behalf of the C.P.R. to operate on the track connection between mileage 11.6 Beachburg Subd. (C.N.R.) and mileage 8.0 Carleton place Subd. (C.P.R.), Twp. of Nepean, Ont.
- 121527 July 29 – Authorizing the N.C.C. on behalf of the C.N.R. & C.P.R. to operate over the portion of the Hawthorne Connection, City of Ottawa, Ont.
- 121528 July 29 – Authorizing the N.C.C. on behalf of the C.N.R. & C.P.R. to operate between mileage 84.8 M. & O. Subd. (C.P.R.) and mileage 0.2 Beachburg Subd. (C.N.R.), City of Ottawa, Ont.
- 121529 July 29 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and transfer facilities at Villa Marie, Nfld., C.N.R.
- 121530 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121531 July 29 – Approving tariffs and supplements to tariffs filed by the D.A.R. under the provisions of the M.F.R.A.
- 121532 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121533 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121534 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121535 July 29 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Assoc. under the provisions of the M.F.R.A.
- 121536 July 29 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Assoc. under the provisions of the M.F.R.A.
- 121537 July 29 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Assoc. under the provisions of the M.F.R.A.
- 121538 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.

- 121539 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121540 July 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- *121541 August 2 – Determining balance of payments to companies subject to Order 96300 as authorized by Appropriation Act No. 7 of Vote 84a of the Supplementary Estimates (A), 1966-67 (See page 1144, 56 B.T.C.)
- 121542 August 2 – Authorizing the County of Kent to relocate County Road No. 27 where it crosses the C. & O.R. between Lots 18 and 19, Concession 14, Twp. of Raleigh, Ontario, mileage 68.10 Subdivision No. 1.
- 121543 August 2 – Authorizing the Quebec Department of Roads to improve the highway at the crossing of the C.N.R. in the Parish of Notre-Dame-du-Sacre-Coeur-de-Rimouski, at mileage 127.27 Mont Joli Subd.
- 121544 August 2 – Authorizing the C.N.R. and the C.P.R. to operate their engines and trains through the interlocking at the Walkley Diamond crossing, in the City of Ottawa, Ont.
- 121545 August 2 – Exempting the C.N.R. from the application of section 53 of General Order E-14 at the main track switch, mileage 312.10 Kingston Subd., Ont.
- 121546 August 3 – Approving tariffs and supplement to tariffs filed by the Canada and Gulf Terminal Railway Company under Section 8 of the M.F.R.A.
- 121547 August 3 – Approving tariffs and Supplements to tariffs filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 121548 August 3 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under Sections 3 and 8 of the M.F.R.A.
- 121549 August 3 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. at Medway, N.S., mileage 100.45 Chester Subd.
- 121550 August 3 – Dismissing the appln. of the C.P.R. for authority to remove the agent-operator at Mountain, Ontario, mileage 95.9 Winchester Subd.
- 121551 August 3 – Authorizing the location of proposed liquefied petroleum gas tank car-tank transfer facilities of Canadian Propane Consolidated Limited near Calahoo, Alta. mileage 17.5 Sangudo Subd., C.N.R.

- 121552 August 3 – Approving location of the branch line of C.P.R. commencing at mileage 46.9 Red Deer Subd., in the SW¼ of Sec. 19, Twp. 31, Rge. 1 West Fifth Meridian and ending in the east half of Sec. 27, Twp. 31, Rge. 4, West Fifth Meridian Alta.
- 121553 August 3 – Authorizing the C.N.R. and the C.P.R. to operate their engines, cars and trains over the Ottawa Station track between mileage 0.2 and 0.75 Beachburg Subd. (C.N.R.), City of Ottawa, Ont.
- 121554 August 4 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 121555 August 4 – Approving location of a new office building of Imperial Oil Limited at Erickson, Man. and the flammable liquid bulk marketing plant, near mileage 31.5 Rossburn Subd. (C.N.R.)
- 121556 August 4 – Approving location of proposed Ammonium Nitrate storage facility of Arborg Consumers Co-Operative Limited at Arborg, Man. near mileage 74.3 Arborg Subd. (C.P.R.)
- 121557 August 4 – Approving application of City of Niagara Falls Ont. re By-Law No. 7142, prohibiting sounding of engine whistles prescribed by section 311(1) of the Railway Act, with respect to the crossings listed in said By-Law.
- 121558 August 5 – Authorizing the Township of King, Ont., to reconstruct the overhead bridge carrying the 2nd Concession Road (Bathurst Street) across and over the C.N.R., mileage 26.48 Newmarket Subd.
- 121559 August 5 – Authorizing the C.N.R. to operate their engines, cars and trains over that portion of the Metro-Rapid Transit underground subway line No. 2, in the City of Montreal, P.Q. mileage 0.29 Montreal Subd.
- 121560 August 5 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Telephone System of the Mun. of the Township of Brooke.
- 121561 August 5 – Approving Supplement No. 8 to Traffic Agreement between The Bell Telephone Company of Canada and The South Bruce Rural Telephone Company Limited.
- 121562 August 5 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Township of Osprey.

- 121563 August 5 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Corporation of the Township of Rochester.
- 121564 August 5 – Approving Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Mun. of the Township of Mornington.
- 121565 August 5 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Wroxeter Telephone Company Limited.
- 121566 August 26 – Authorizing the N.A.R. to remove the station agent at Berwyn, Alta., mileage 71.3 Peace River Subd. and appoint a resident caretaker.
- 121567 August 5 – Authorizing the less than standard overhead and side clearances on the C.N.R. trackage serving Colgate Palmolive Limited, in the City of Toronto, Ont. off mileage 331.12 Kingston Subd.
- 121568 August 5 – Authorizing the C.N.R. to construct a bridge to carry their railway over the Portage Diversion Channel in the NE¼ of Sec. 5, Twp. 12, Rge. 7 West Principal Meridian, near Hobson, Man. at mileage 3.79 Gladstone Subd.
- 121569 August 5 – Approving Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Mun. of the Township of Huron.
- 121570 August 5 – Authorizing the Quebec Department of Roads to widen the highway at the crossing of the C.N.R. in the Mun. of Wendover and Simpson, County of Drummond, mileage 95.71 Drummondville Subd.
- 121571 August 5 – Approving Supplement No. 9 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Mun. of the Township of Wilmot.
- 121572 August 5 – Approving Supplement No. 9 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Mun. of the Township of Bruce.
- 121573 August 5 – Approving the location of the proposed flammable liquid bulk storage and transfer facilities of Shell Canada Limited at Brunkild, Man. near mileage 21.8 Carman Subd., C.N.R.
- 121574 August 5 – Authorizing the flagging of all train movements over the crossing of No. 4 Colliery Spur of The Cumberland Railway

Company and Brookside Street, mileage 0.12; Maple Avenue, mileage 0.25 and Lake Road, mileage 0.50 all in the Town of Glace Bay, N.S.

- 121575 August 5 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Mun. of the Township of Dawn.
- 121576 August 5 – Authorizing the Hamilton-Wentworth Suburban Roads Comm. to reconstruct and improve the overhead bridge carrying Sydenham Road (Suburban Road No. 5) across the C.N.R. Twp. of Flamboro West, Ont. at mileage 3.68 Dundas Subd.
- *121577 August 5 – Authorizing the C.N.R. to abandon that portion of their Alexandria Subd. from mileage 76.3 in the vicinity of Rideau Street, City of Ottawa, Ont. (See page 1146, 56 B.T.C.)
- 121578 August 5 – Approving Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and Caradoc-Ekfrid Telephone Company Limited.
- 121579 August 8 – Amending Order No. 120121 which authorized the City of London Ont. to reconstruct and improve the subway carrying Oxford St. W. across and under the C.N.R., County of Middlesex, mileage 2.61 Strathroy Subd.
- 121580 August 8 – Allocating balance of cost of construction and future maintenance of the subway to carry five tracks of the C.P.R. across and over Sheppard Avenue, bet. Lots 24 and 25, Cons. 2 and 3 Twp. of Scarborough, Ont. mileage 198.95 Belleville Subd.
- 121581 August 8 – Authorizing the Nova Scotia Department of Highways to construct the Truro By-Pass Road over the C.N.R. by means of an overhead bridge, in Colchester County., mileage 3.16 Springhill Subd.
- 121582 August 8 – Authorizing the C.P.R. to operate over the reconstructed bridge at mileage 31.8 Mountain Subd., B.C.
- 121583 August 8 – Authorizing the Quebec Department of Roads to widen Highway 25 where it crosses the C.N.R., Mun. of the Parish of St. Cajetan d'Armagh, mileage 167.77 Monk Subd.
- 121584 August 8 – Authorizing the C.P.R. to operate through Tunnel No. 1 at mileage 128.8 Laggan Subd., B.C.
- 121585 August 8 – Authorizing the British Columbia Department of Highways to construct Sawmill Road across the C.P.R., mileage 25.65 Osoyoos Subd., B.C.

- 121586 August 8 – Declaring the crossing of the C.P.R. and Youngberg Road No. 111, mileage 102.2 Princeton Subd., B.C. to be a public crossing.
- 121587 August 8 – Approving the changes to the automatic protection at crossing of the C.N.R. and Eglinton Ave. W. (Detour Road), Mun. of Metro. Toronto, Ont., mileage 6.73 Weston Subd.
- 121588 August 8 – Authorizing the Quebec Department of Roads to construct Highway No. 21 across the C.N.R., Village of Richelieu, County of Rouville, mileage 42.81 Granby Subd.
- 121589 August 8 – Authorizing the C.P.R. to operate on the subway structure at Greenwood, B.C., mileage 116.02 Boundary Subd.
- 121590 August 8 – Authorizing the City of Longueuil P.Q. to construct a pedestrian crossing across the C.N.R., in the vicinity of LaSalle St., mileage 1.44 Sorel Subd.
- 121591 August 8 – Allocating the cost of the grade separation to carry St. Clair Ave. E. across and under the C.N.R., Twp. of Scarborough, Ont., mileage 1.4 Geco Spur, as authorized by Board Order 120367.
- 121592 August 8 – Authorizing the Quebec Department of Roads to install protection at crossing of the C.N.R. and Highway 9A, Village of Lacolle, mileage 1.42 Valleyfield Subd.
- 121593 August 8 – Authorizing the City of Lauzon, P.Q. to widen Joliette St. where it crosses the C.N.R., mileage 113.30 Montmagny Subd. and install automatic protection at the said crossing.
- 121594 August 8 – Approving the Eighth Revised Appendix "A" between the Bell Telephone Co. of Canada and the Minister of Transport regarding the furnishing of ship-to-shore radio telephone service.
- 121595 August 8 – Approving Supplement 8 to traffic agreement between The Bell Telephone Co. of Canada and the Wightman Telephone System.
- 121596 August 8 – Approving Supplement 7 to Traffic Agreement between The Bell Telephone Co. of Canada and The Corp. of the Twp. of North Gosfield.
- 121597 August 8 – Approving Supplement 4 to Traffic Agreement between the Bell Telephone Co. of Canada and The Commissioners for the Telephone System of the Mun. of the Twp. of Blyth.
- 121598 August 8 – Approving Supplement 12 to Traffic Agreement between The Bell Telephone Co. of Canada and The People's Telephone Company of Forest Limited.

- 121599 August 8 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Highway 55, near Shellbrook, Sask. mileage 2.15 Big River Subd.
- 121600 August 8 – Approving the location of fuel oil pipe lines under the private siding serving Dominion Linoleum and Oilcloth Co., Ltd., Brantford, Ont., mileage 0.25 of the said siding, which commences at mileage 0.3 of the Brantford Industrial Spur off mileage 21.34 Dundas Subd.
- 121601 August 8 – Authorizing the Saskatchewan Department of Highways & Transportation to improve the vision at crossing of P.T.H. 5 and C.P.R. mileage 33.70 Tisdale Subd.
- 121602 August 8 – Amending Order 119858 which authorized the C.N.R. to install automatic protection at crossing of their railway and Halton Co. Road No. 3, west of Silver, Ont., mileage 30.83 Guelph Subd.
- 121603 August 8 – Authorizing the C.P.R. to operate under the overhead bridge carrying Hwy. 95 over its tracks, mileage 76.50 Windermere Subd., B.C.
- 121604 August 8 – Authorizing the Trans-Canada Pipe Lines Ltd. to construct an outside diameter steel natural gas pipeline under the C.N.R., Parish of St. Jean, Co. of St. Jean, P.Q., mileage 18.45 Rouses Point Subd.
- 121605 August 8 – Authorizing the Twp. of Moore to construct St. Clair Blvd. across the C. & O., County of Lampton, Ont., mileage 65.2 Canadian No. 2 Subd.
- 121606 August 9 – Authorizing the Toronto Harbour Commissioners to construct a siding at grade across an unopened portion of Lake Shore Blvd., City of Toronto, Ont.
- 121607 August 9 – Authorizing the City of St. Catharines Ont. to reconstruct the crossing of the C.N.R. and Niagara Street, mileage 0.16 Fonthill Subd. and mileage 3.09 Grantham Subd.
- 121608 August 9 – Authorizing the C.P.R. to construct a third track across Abbott St., City of Cranbrook, B.C., mileage 98.57 Cranbrook Subd.
- 121609 August 9 – Approving changes in the automatic protection at crossing of the C.N.R. and Martingrove Road (temporary detour), Rexdale, Ont., mileage 11.76 Weston Subd.
- 121610 August 9 – Relieving the C.N.R. from erecting right-of-way fences between certain mileages on the west side of their Stettler Subd., Alta.

- 121611 August 9 – Revoking the authority of Order No. 120223 to construct a siding at grade to serve Grange Mattress Co. across 71st Ave. and a lane (not open) east of Manitoba St., City of Vancouver, B.C., C.P.R.
- 121612 August 9 – Authorizing the installation of reflectorized signs at crossing of the highway and C.N.R., mileage 28.66 Dodsland Subd., Alta.
- 121613 August 9 – Authorizing the Town of Carnduff, Sask. to improve the crossing of Ellice St. crossing the C.P.R., mileage 97.28 Estevan Subd.
- 121614 August 9 – Authorizing the installation of automatic protection at crossing of the C.P.R. and 99th St., City of Edmonton, Alta., mileage 173.01 Willingdon Subd.
- 121615 August 9 – Relieving the C.P.R. from erecting and maintaining right-of-way fences between certain mileages on the south side of its right-of-way on its Galt Subd., Ont.
- 121616 August 9 – Approving the crossing of the C.N.R. and Hanover St., City of Saint John, N.B., mileage 0.57 Sussex Subd.
- 121617 August 9 – Authorizing the installation of reflectorized signs at crossing of the highway and the C.N.R., mileage 4.39 Montague Subd., P.E.I.
- 121618 August 9 – Amending Order 120055 which authorized the installation of automatic protection at crossing of the C.N.R. and Florence St., Emo, Ont., mileage 109.06 Fort Frances Subd.
- 121619 August 9 – Authorizing the relocation of reflectorized signs at crossing of the highway and C.P.R., mileage 0.23 of the spur which commences at mileage 10.60 Galt Subd., Ont.
- 121620 August 9 – Approving the construction of the Great Slave Lake Rly. across the south access road to the airport, Town of Hay River, N.W.T., mileage 375.32. (C.N.R.)
- 121621 August 9 – Amending Order 119686 which authorized the C.P.R. to improve the protection at crossing of its railway and Main Street, City of Lancaster, N.B., mileage 0.26 West Saint John Subd.
- 121622 August 9 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Nelson St., City of Stratford, Ont., mileage 0.55 Thorndale Subd.
- 121623 August 9 – Authorizing the C.N.R. to relocate the reflectorized signs at the crossing of their railway and the highway, mileage 25.82 Dodsland Subd., Sask.

- 121624 August 9 – Authorizing the C.N.R. to operate over a relocated portion of the Fort Frances Subd. and over the bridge across Little Ottertail Creek, mileage 61.23, Ont.
- 121625 August 9 – Amending Appendix "A" of Order 120414 respecting signboards and the marking of such signboards with reflective material at certain highway crossings of the C.N.R.
- 121626 August 9 – Amending Appendix "A" of Order 117332 respecting marking of signboards at certain highway crossings of the C.N.R. with reflective material.
- 121627 August 9 – Authorizing the Quebec Department of Roads to improve Belle Riviere Road North where it crosses the C.P.R., Mun. of St. Scholastique, County of Deux Montagnes, mileage 32.67 Lachute Subd.
- 121628 August 9 – Authorizing the Quebec Department of Roads to improve Cote de la Station Road where it crosses the C.N.R., Mun. of St. Jean de Boischâtel, County of Montmorency, mileage 7.27 Murray Bay Subd.
- 121629 August 9 – Amending Order 115469 which authorized the installation of automatic protection at crossing of Gage Ave., south of Burlington St., City of Hamilton, Ont., and the T.H. & B.R., the main line of the C.N.R. and a spur to the south.
- 121630 August 9 – Revoking Order 112521 and authorizing the Corp. of the Twp. of Whitby Ont., to construct a subway carrying Thickson Road across and under the C.N.R., mileage 303.23 Kingston Subd.
- 121631 August 9 – Authorizing the Saskatchewan Department of Highways & Transportation to construct P.H. No. 13 across the C.P.R., mileage 7.0 Altawan Subd.
- 121632 August 9 – Authorizing the temporary relocation of C.N.R.'s Yard Corridor tracks, opposite mileages 3.8 to 4.4, Montreal Subd. City of Montreal, P.Q.
- 121633 August 10 – Authorizing installation of reflectorized signs at crossing of the highway and the C.P.R., mileage 5.2 Emerson Subd., Man.
- 121634 August 10 – Authorizing the C.N.R. to temporarily close the station at Callander, Ont., during the vacation period of the Agent.
- 121635 August 10 – Authorizing installation of reflectorized signs at crossing of the C.N.R. and the highway, mileage 20.31 Vankleek Subd., Ont.

- 121636 August 10 – Authorizing improvements to the sight lines at crossing of the C.N.R. and municipal road, R.M. of Ellice, Man., mileage 205.27 Rivers Subd.
- 121637 August 10 – Approving and authorizing the less than standard overhead clearances on the siding serving Kimberly-Clark of Canada Limited, Lancaster, N.B., C.P.R.
- 121638 August 10 – Approving and authorizing the less than standard clearances on the siding serving Dainty Foods Limited, City of Windsor, Ont., The Essex Terminal Rly. Co.
- 121639 August 10 – Authorizing improvements at crossing of the C.P.R. and Avonlough Road, Twp. of Sidney, Ont., mileage 94.46 Belleville Subd.
- 121640 August 10 – Authorizing the Quebec Department of Roads to construct an overhead bridge carrying Highway 6 across and over the C.N.R., Parish of Ste. Marie de Sayabec, County of Matapeia, mileage 77.53 Mont Joli Subd.
- 121641 August 10 – Approving Supplement 12 to Traffic Agreement between The Bell Telephone Company of Canada and The Thamesville Telephone Company Limited.
- 121642 August 10 – Authorizing the Parish of St. Jean l'Evangeliste, P.Q. to construct a municipal road across the C.N.R., mileage 20.10 Rouses Point Subd.
- 121643 August 10 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 121644 August 10 – Approving tariffs filed by the British Columbia Telephone Company.
- 121645 August 10 – Authorizing the C.P.R. to construct an additional track across Third St. N., City of Cranbrook, B.C., mileage 98.80 Cranbrook Subd.
- 121646 August 10 – Relieving the C.P.R. from publication in newspapers in the counties or electoral districts through which the railway runs of notice of an agreement between The Calgary & Edmonton Rly. Co. and the C.P.R. amending the provisions of the lease between the said companies.
- 121647 August 10 – Relieving the C.P.R. from publication in newspapers in the counties or electoral districts through which the railway runs of notice of an agreement between Atlantic & North-West Rly. Co. and the C.P.R. amending the provisions of the lease between the said companies.

- 121648 August 10 – Authorizing the N.C.C. to construct Gladstone Ave. across the temporarily relocated track of the C.P.R., City of Ottawa, Ont., mileage 0.64 Prescott Subd.
- 121649 August 10 – Authorizing the C.P.R. to operate on the private siding serving the Manchester Yards, across 26th Ave. S.E. at grade, City of Calgary, Alta.
- 121650 August 10 – Authorizing the C.P.R. to operate over the private siding serving the Calgary Concrete Plant in Manchester Yards crossing the industrial escape route at grade, City of Calgary, Alta.
- 121651 August 11 – Approving Supplement 8 to Traffic Agreement between The Bell Telephone Company of Canada and North Renfrew Telephone Company Limited.
- 121652 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Westport Telephone Company Limited.
- 121653 August 11 – Approving Supplement 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Algoma Central Telephone Company Limited.
- 121654 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Ivy Thornton Telephone Company Limited.
- 121655 August 11 – Approving Supplement 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Lewis Telephone System.
- 121656 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Drummond Centre Telephone Company Limited.
- 121657 August 11 – Approving Supplement 6 to Traffic Agreement between The Bell Telephone Company of Canada and Kaladar and Northern Telephone System.
- 121658 August 11 – Authorizing improvement to automatic protection at crossing of the C.N.R. and St. Joseph St., City of Lachine, P.Q., mileage 1.29 Lachine Spur.
- 121659 August 11 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Riviere Delisle North Road, St. Ignace de Coteau du Lac, P.Q., mileage 35.74 Kingston Subd.
- 121660 August 11 – Authorizing the C.P.R. to operate on the private siding serving the Calgary Manchester Yards across Dartmouth Road, City of Calgary, Alta.

- 121661 August 11 – Amending Order 119341 which authorized the installation of automatic protection at crossing of the C.N.R. and Aberdeen and Carleton Streets, City of Fredericton, N.B., mileage 69.80 Centreville Subd.
- 121662 August 11 – Authorizing City of Calgary, Alta. to widen 42nd Ave. S.E. where it crosses the C.P.R. at mileage 2.01 Macleod Subd. and over the C.P.R.'s Nitrogen Spur and Manchester Lead No. 1.
- 121663 August 11 – Approving changes to the automatic protection at crossing of C.N.R. and 115th Ave. at 80th St., Edmonton, Alta., mileage 1.74 Edmonton East Terminal Subd.
- 121664 August 11 – Approving changes in the automatic protection at crossing of Hwy. 24 and C.N.R., Simcoe, Ont., mileage 73.18 Cayuga Subd.
- 121665 August 11 – Amending Order 121188 which authorized Trans-Mountain Oil Pipe Lines Co. to construct low pressure pipe lines and high pressure propane pipe lines across and over the C.P.R. near Westridge, B.C., near mileage 121 Cascade Subd.
- 121666 August 11 – Authorizing the installation of reflectorized signs at crossing of the C.P.R. and the highway at mileage 9.06 Parry Sound Subd., Ont.
- 121667 August 11 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Mun. of the Twp. of St. Joseph.
- 121668 August 11 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Alnwick Rural Telephone Company Limited.
- 121669 August 11 – Approving Supplement 10 to Traffic Agreement between The Bell Telephone Company of Canada and The Port Hope Telephone Company Limited.
- 121670 August 11 – Approving the location of Shell Canada Ltd.'s proposed additional flammable liquid bulk storage and handling facilities, Plum Coulee, Man., near mileage 63.7 La Riviere Subd., C.P.R.
- 121671 August 11 – Authorizing the installation of reflectorized signs at crossing of the C.N.R. and the highway at mileage 48.98 Jonquiere Subd., P.Q.

- 121672 August 11 – Authorizing the installation of reflectorized signs at crossing of the C.N.R. and the highway at mileage 186.17 Newmarket Subd., Ont.
- 121673 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Roxborough Telephone Company.
- 121674 August 11 – Authorizing the installation of automatic protection at crossings of the D.A.R. and Chestnut St., mileage 85.55 Yarmouth Subd. and Elm St., mileage 85.62 Yarmouth Subd., Town of Yarmouth N.S.
- 121675 August 11 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Lanark and Ramsay Telephone Company Limited.
- 121676 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Balderson Telephone Company Limited.
- 121677 August 11 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Northern Telephone Limited (Nakina).
- 121678 August 11 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Corp. of the Twp. of Medonte.
- 121679 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Mun. of the Twp. of Laird.
- 121680 August 11 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Northern Telephone Limited (Atikokan).
- 121681 August 11 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Northern Telephone Limited (Pickle Crow).
- 121682 August 11 – Approving Supplement 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Haley's Station Telephone Co. Ltd.
- 121683 August 12 – Exempting the C.N.R. from the appln. of Sec. 53 of G.O. E-14 at the main track switch at mileage 14.44 Halton Subd., Ont.
- 121684 August 12 – Authorizing the Town of Carnduff, Sask. to improve Broadway Street where it crosses the C.P.R., mileage 97.06 Estevan Subd.

- 121685 August 12 – Authorizing the Twp. of Sandwich South, Ont. to widen Malden Road where it crosses the N.Y.C.R. at mileage 214.54 Main Line Subd.
- 121686 August 12 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Little Britain Telephone Company Ltd.
- 121687 August 12 – Approving Supplement 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Enterprise Telephone System Ltd.
- 121688 August 12 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Twp. of Manvers.
- 121689 August 12 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Barrie Island Telephone Co. Ltd.
- 121690 August 12 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Manitoulin Island Rural Telephone Co. Ltd.
- 121691 August 12 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Northern Telephone Ltd. (Kenora Settlement).
- 121692 August 12 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Northern Telephone Ltd. (Fort Frances-Kenora).
- 121693 August 12 – Authorizing installation of automatic protection at crossing of the D.A.R. and Main St., Town of Yarmouth, N.S., mileage 85.67 Yarmouth Subd.
- 121694 August 12 – Approving the proposed restricted side clearance of fluorescent lights for piggyback facilities which will be constructed at piggyback terminals of the C.P.R.
- 121695 August 12 – Amending Order 120762 which authorized the Corp. of the Twp. of Richmond, B.C. to construct a road across the C.P.R. at mileage 1.19 Vancouver & Lulu Island Subd.
- 121696 August 12 – Authorizing the installation of improved protection at crossing of the C.N.R. and Strange St., City of Kitchener, Ont., mileage 63.52 Guelph Subd.
- 121697 August 12 – Approving the temporary less than standard clearances of the false work during construction of the overhead bridge in the City of Montreal, P.Q., mileage 3.84 South Bank Subd., C.P.R.

- 121698 August 12 – Authorizing the installation of automatic protection at crossing of C.N.R. and Lancaster St. in lieu of the existing protection, City of Kitchener, Ont., mileage 62.08 Guelph Subd.
- 121699 August 12 – Approving the location of Canadian Propane Consolidated Ltd. proposed liquefied petroleum gas tank-car tank-truck transfer and storage facilities near Calahoo, Alta., mileage 17.5 Sangudo Subd., C.N.R.
- 121700 August 15 – Approving the filing of tariffs by The Bonaventure and Gaspé Telephone Company Ltd.
- 121701 August 15 – Approving changes in the automatic protection at crossing of Depew St. and C.N.R. mileage 2.27 Spur Line, and the T.H. & B.R. at mileage 0.55 Belt Line, City of Hamilton, Ont.
- 121702 August 15 – Authorizing the Highways Department of Manitoba to construct frontage roads on each side of P.T.H. 101 across the C.P.R. at mileage 5.74 and mileage 5.80 Winnipeg Beach Subd., Parish of St. Pauls.
- 121703 August 15 – Authorizing the Highways Department of Manitoba to widen P.R. 258 where it crosses the C.P.R. in the vicinity of Glenboro, Mun. of South Cypress, mileage 100.47 Glenboro Subd.
- 121704 August 15 – Authorizing the installation of protection at crossing of The C. & O.R. and Kent County Road 40 south of Dresden, Ont., mileage 31.2 No. 2 Subd.
- 121705 August 15 – Authorizing the Nova Scotia Department of Highways to improve the approaches to crossing of the highway and the C.N.R. at Milford Station, Hants County, mileage 38.48 Bedford Subd.
- 121706 August 15 – Authorizing the C. & O.R. to revise the existing protection at crossing of its spur track serving Dow Chemical of Canada Ltd. and Vidal St. (Hwy. 40), City of Sarnia, Ont., mileage 69.10 Subdivision No. 2.
- 121707 August 15 – Authorizing the Ontario Department of Highways to widen the Twp. Road between Twps. of Pilkington and Guelph across C.P.R., mileage 37.82 Goderich Subd.
- 121708 August 15 – Authorizing the installation of protection at crossing of the C.N.R. and Cameron St., City of Fort William, Ont., mileage 3.58 Kashabowie Subd.

- 121709 August 15 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and the South Crosby Rural Telephone Co. Ltd.
- 121710 August 15 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Lorne Ave., City of Saskatoon, Sask., mileage 188.36 Watrous Subd.
- 121711 August 15 – Authorizing the County of Brant, Ont. to reconstruct County Road 33 where it crosses the C.N.R., Twp. of South Dumfries, at mileage 3.33 Fergus Subd.
- 121712 August 15 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway, mileage 23.77 Bala Subd., Ont.
- 121713 August 15 – Authorizing the installation of reflectorized signs at crossing of the C.P.R. and the highway, mileage 77.30 Victoria Subd., B.C.
- 121714 August 15 – Authorizing the installation of reflectorized signs at crossing of the C.N.R. and the highway, mileage 37.93 Carbonear Subd., Nfld.
- 121715 August 15 – Approving Supplement 5 to Traffic Agreement between The Bell Telephone Company of Canada and The Dunsford Telephone, Light and Power Co-operative Assoc. Ltd.
- 121716 August 15 – Approving Supplement 6 to Traffic Agreement between The Bell Telephone Company of Canada and the Commissioners for the Telephone System of the Mun. of the Village of Coldwater.
- 121717 August 15 – Authorizing the C.N.R. to remove the station building at Norris Arm, Nfld.
- 121718 August 15 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Cambray Telephone Co. Ltd.
- 121719 August 15 – Approving Supplement 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Fenella Rural Telephone Co. Ltd.
- 121720 August 15 – Relieving the C.P.R. from erecting and maintaining right of way fences between certain mileages on its Winnipeg Beach Subd., Man.
- 121721 August 15 – Extending the time within which the C.P.R. is required to construct a branch line of railway to serve the United States Borax and Chemical Corp. potash mine, commencing at mileage 83.12 Sutherland Subd., near Elstow, Sask.

- 121722 August 15 – Relieving the C.P.R. from erecting and maintaining right of way fences between certain mileages of its Kerrobert Subd., Sask.
- 121723 August 15 – Approving Supplement 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Billings Mutual Telephone Co. Ltd.
- 121724 August 15 – Approving Supplement 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Hopetown Telephone Co. Ltd.
- 121725 August 15 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Mun. of the Twp. of Dysart.
- 121726 August 15 – Approving Supplement 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Burpee Municipal Telephone System.
- 121727 August 15 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Gore Bay Municipal Telephone System.
- 121728 August 15 – Approving Supplement 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Cameron Telephone Co. Ltd.
- 121729 August 15 – Approving Supplement 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Durham Telephones Ltd.
- 121730 August 16 – Approving changes in the automatic protection at crossing of the T.H. & B.R. and River Road, Coyle, Ont., mileage 1.10 Welland Subd.
- 121731 August 16 – Authorizing the C.N.R. to operate through the interlocking at McArthur Jct., St. Boniface, Man.
- *121732 August 17 – Approving resolution of The Blue Water Bridge Authority authorizing the Secretary to prepare and issue tariffs of the tolls to be charged by the said Authority and to submit the same to the Board. (See page 1147, 56 B.T.C.)
- *121733 August 17 – Authorizing the N.C.C. on behalf of the C.P.R. to abandon that portion of the M. & O. Subd. between mileage 84.35 and mileage 86.8, Ont. (See page 1148, 56 B.T.C.)
- 121734 August 17 – Authorizing the Saskatchewan Department of Highways & Transportation to widen Hwy. 9 where it crosses the C.N.R., mileage 36.74 Lampman Subd. between NE¼ of Sec. 7 and NW¼ of Sec. 8-8-2-W2M.

- 121735 August 17 – Authorizing the C.P.R. to construct a pedestrian overhead bridge across and over its yard tracks at Weston, Man.
- 121736 August 17 – Authorizing the C.N.R. to remove the caretaker at Chinook, Alta., mileage 88.8 Oyen Subd.
- 121737 August 17 – Authorizing the installation of protection at crossings of the C.N.R. and the highway, at mileages 29.64 and 46.16 Sheerness Subd., Alta.
- 121738 August 17 – Authorizing protection at crossing of the C.N.R. and St. Jean Road, Crabtree, P.Q., mileage 104.59 Joliette Subd.
- 121739 August 17 – Authorizing the C.N.R. on behalf of Canadian Gypsum Co. Ltd. to construct four tunnels under the C.N.R. at Hagersville, Ont., mileage 22.82 Hagersville Subd.
- 121740 August 17 – Authorizing the installation of reflectorized signs at crossing of the C.N.R. and the highway at mileage 7.38 Granby Subd., P.Q.
- 121741 August 17 – Authorizing the installation of automatic protection at crossing of the C.N.R. and County Road 19, Co. of Ontario, Ont., mileage 90.17 Newmarket Subd.
- 121742 August 17 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Range Road 9, Notre-Dame-du-Bon-Conseil, P.Q., mileage 88.60 Drummondville Subd.
- 121743 August 17 – Authorizing the Twp. of Brantford, Ont. to reconstruct Papple's Road where it crosses the T.H. & B.R. at mileage 58.03 Waterford Subd.
- 121744 August 17 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 121745 August 17 – Revoking the authority of Order 68755 to locate the facilities for the handling of flammable liquids of Imperial Oil Ltd., near the tracks of the C.P.R., Sherbrooke, P.Q.
- 121746 August 17 – Revoking the authority of Orders Nos. 62106 and 92248 to locate the facilities for the handling of flammable liquids of Imperial Oil Ltd. near the tracks of the C.P.R., at Jenner, Alta., mileage 57.7 Bassano Subd.
- *121747 August 17 – Authorizing the C.N.R. to abandon operation of that portion of their Hemmingford Subd. between St. Remi (mileage 6.52) and Hemmingford (mileage 21.29), P.Q., a total distance of 14.77 miles. (See page 1135, 56 B.T.C.)

- 121748 August 17 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway, being first public crossing west of the station at Trois Pistoles, P.Q., mileage 161.77 Mont Joli Subd.
- 121749 August 17 – Removing the speed restrictions at crossing of the C.N.R. and the St. Albert Trail between 126th and 127th Aves., City of Edmonton, Alta., mileage 4.9 Edmonton Terminal Subd.
- 121750 August 18 – Approving the location of C.P.R. proposed flammable liquid bulk storage and handling facilities, MacTier, Ont., near mileage 126.85 MacTier Subd.
- 121751 August 18 – Authorizing the C.N.R. to operate through the tunnel which carries their tracks across and under Hwys. 2, 17 and the Trans-Canada Hwy., City of Montreal, P.Q., mileage 4.23 Montreal Subd.
- 121752 August 18 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121753 August 18 – Approving tariffs and supplements to tariffs filed by the C.N.R. under the provisions of the M.F.R.A.
- 121754 August 18 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Assoc. under the provisions of the M.F.R.A.
- 121755 August 18 – Approving tariffs and supplements to tariffs filed by the D.A.R. under the provisions of the M.F.R.A.
- 121756 August 18 – Approving tariffs and supplements to tariffs filed by the C.N.R. under the provisions of the M.F.R.A.
- 121757 August 18 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Assoc. under the provisions of the M.F.R.A.
- 121758 August 18 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121759 August 18 – Authorizing the C.P.R. to remove the caretaker and close the station at Echo Bay, Ont., mileage 116.2 Thessalon Subd.
- 121760 August 19 – Approving tariffs and supplements to tariffs filed by the C.P.R. under the provisions of the M.F.R.A.
- 121761 August 19 – Approving changes in the automatic protection at crossing of the C.N.R. and Vanier Blvd. (formerly Boveri Blvd.) City of St. Jean, P.Q., mileage 21.57 Rouses Point Subd.

- 121762 August 19 – Authorizing the C.N.R. to operate under the overhead bridge, Town of St. Marys, Ont., mileage 11.13 Thorndale Subd.
- 121763 August 19 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and the highway at St. Clet, P.Q., mileage 30.02 Winchester Subd.
- 121764 August 19 – Authorizing the installation of improved automatic protection at crossing of the C.N.R. and St. François St., Town of La Tuque, P.Q., mileage 122.07 La Tuque Subd.
- 121765 August 19 – Approving tariffs and supplements to tariffs filed by the C.N.R. under the provisions of the M.F.R.A.
- 121766 August 19 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Brant St., Burlington, Ont., mileage 49.2 Halton Subd.
- 121767 August 19 – Authorizing the removal of the speed limitation at crossing of the N.Y.C.R. and Hwy. 19, Tillsonburg, Ont., mileage 91.57 Main Line Subd.
- 121768 August 22 – Approving construction of crossings at grade where Caroline St. spur commencing on C.N.R. lead track opposite mileage 38.90 Oakville Subd. crosses Caroline and Stuart streets in the City of Hamilton, Ont. and where the track serving Rheem of Canada Ltd. commencing on C.N.R. lead track opposite mileage 38.91 Oakville Subd. crosses Stuart Street.
- 121769 August 22 – Authorizing the C.N.R. to operate over the subway structure carrying their main tracks across and over Carillon Ave., City of Montreal, P.Q., mileage 3.97 Montreal Subd.
- 121770 August 22 – Authorizing the Newfoundland Department of Highways to construct a highway across the C.N.R.'s spur line to McNamara Industries, at Octagon Pond.
- 121771 August 22 – Approving the location of British America Oil Co. Ltd. proposed flammable liquid bulk storage and handling facilities at Wainwright, Alta., near mileage 140.10 Wainwright Subd.
- 121772 August 22 – Authorizing the C.P.R. to remove the caretaker at Stalwart, Sask., mileage 50.8 Colonsay Subd.
- 121773 August 22 – Authorizing the C.P.R. to remove the caretaker and close the station at Markstay, Ont., mileage 55.1 Cartier Subd.
- 121774 August 22 – Authorizing the Quebec Department of Roads to widen and improve the crossing of the C.N.R. and Howard and Smith Road in the Mun. of Haldimand, County of Gaspé South, mileage 101.08 Chandler Subd.

- 121775 August 22 – Authorizing the C.P.R. to remove the caretaker at Verwood, Sask., mileage 87.9 Assiniboia Subd.
- 121776 August 22 – Authorizing protection at crossing of the C.N.R. and St. Roch Road, mileage 0.54 Marine Industries Siding, Tracy, P.Q., mileage 43.12 Sorel Subd.
- 121777 August 22 – Authorizing the C.P.R. to remove the caretaker at Beauvallon, Alta., mileage 71.4 Willingdon Subd.
- 121778 August 22 – Authorizing the C.N.R. to operate under the overhead bridge, City of Montreal, P.Q., mileage 6.08 Montreal Subd.
- 121779 August 22 – Authorizing the C.P.R. to construct a branch line of railway approximately 2.59 miles in length, commencing at mileage 0.03 Wilkie Subd., R.M. of Vanscoy No. 345 and terminating on the south boundary in the R.M. of Cory No. 344, Sask.; a west wye connection to the said branch line commencing at mileage 9.32 Wilkie Subd.; construct the line across the C.N.R. at mileage 197.56 Watrous Subd. at mileage 1.08 of the line and to construct the line across public roads at mileage 0.74 of the line in the R.M. of Vanscoy No. 345, and at mileage 1.97 in the R.M. of Cory No. 344.
- 121780 August 22 – Allocating the cost of maintenance of the subway carrying Hwy. 3B across the C.P.R., mileage 110.12 Windsor Subd. and across the Essex Terminal Rly. Co. at mileage 3.5 Main Line Subd., Twp. of Sandwich West, City of Windsor, Ont.
- 121781 August 22 – Allocating the cost of maintenance and operation of the automatic protection at crossing of the C.N.R.'s Chrysler Spur and Highway 39 (Tecumseh Road), City of Windsor, Ont.
- 121782 August 22 – Allocating the cost of maintenance and operation of the automatic protection at crossing of the Essex Terminal Rly. Co. and Hwy. 18 (East Main St.), City of Windsor, Ont., mileage 7.90 Mainline Subd.
- 121783 August 22 – Amending Order 108899 which authorized the installation of automatic protection at crossing of the C.N.R. and Sargent Ave., City of St. James, Man., mileage 3.55 Oak Point Subd.
- 121784 August 23 – Authorizing the C.N.R. to install automatic protection in lieu of the existing protection at crossing of their Rly. and George St., New Glasgow, N.S., mileage 43.10 Hopewell Subd.

- 121785 August 23 – Authorizing the installation of automatic protection at crossing of the C.N.R. and West Gore St., City of Stratford, Ont., mileage 0.45 Thorndale Subd.
- 121786 August 23 – Authorizing the installation of protection at crossing of the C.N.R. and Lorne Ave., City of Stratford, Ont., mileage 1.33 Thorndale Subd.
- 121787 August 23 – Authorizing the installation of automatic protection at crossing of the C.N.R. and St. Michel St., Town of La Tuque, P.Q., mileage 122.62 La Tuque Subd.
- 121788 August 23 – Authorizing the installation of automatic protection at crossing of the C.N.R. and l'Ormiere Road, Parish of St. Justin, County of Maskinonge, P.Q., mileage 77.56 Joliette Subd.
- 121789 August 23 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Range 8 Road, St. Boniface de Shawinigan, P.Q., mileage 58.58 Joliette Subd.
- 121790 August 23 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Pierre Boucher St., Town of Boucherville, P.Q., mileage 8.50 Sorel Subd.
- 121791 August 23 – Approving tariffs and supplements to tariffs filed by the C.N.R. under the provisions of the M.F.R.A.
- 121792 August 23 – Authorizing the County of Lambton, Ont. to widen and improve the approach grades at crossing of County Road 2 and the C. & O.R., Twp. of Sombra.
- 121793 August 23 – Allocating the cost of maintenance and operation of the automatic protection at crossing of the C.N.R. and Hwy. 3 City of Port Colborne, Ont., mileage 1.09 Humberstone Subd.
- 121794 August 23 – Authorizing the M.D. of Cardston 6, Alta. to widen the highway where it crosses the C.P.R. mileage 71.07 Cardston Subd.
- 121795 August 23 – Approving clearances on the track serving Barry & Staines Linoleum (Canada) Ltd., City of Farnham, P.Q., which commences at mileage 6.3 Adirondack Subd., C.P.R.
- 121796 August 23 – Amending Order 111806 which authorized the C.P.R. to replace the existing pile trestle with corrugated metal culverts and fill at mileage 57.9 Alberta Central Subd., Alta.
- 121797 August 23 – Authorizing the installation of improved protection at crossing of the C.N.R. and Ste. Caroline Road, Mun. of Louis Joliette, P.Q., mileage 196.27 Monk Subd.

- 121798 August 23 – Authorizing the C.N.R. to make improvements to the automatic protections at crossings of their railway and Egerton St. and Ashland Ave. at mileages 31.03 and 30.54 Thorndale Subd., respectively City of London, Ont.
- 121799 August 23 – Approving the overhead clearance on the track serving Boundary Sawmills Ltd. near Midway, B.C., mileage 1.6 Carmi Subd., C.P.R.
- 121800 August 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Frontenac County Road West of Kingston, Ont., mileage 175.90 Kingston Subd.
- 121801 August 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Gardiners Road east of Collins Bay, Ont., mileage 178.05 Kingston Subd.
- 121802 August 23 – Revoking the authority of Order 88725 to locate Imperial Oil Ltd. flammable liquid bulk storage facilities at Hussar, Alberta, C.P.R.
- 121803 August 23 – Revoking the authority of Order 100322 to locate Imperial Oil Ltd. flammable liquid bulk storage facilities, Acme, Alta., Langdon Subd., C.P.R.
- 121804 August 23 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Cicot Street, Town of Boucherville, P.Q., mileage 7.37 Sorel Subd.
- 121805 August 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Highway 2, west of Kingston, Ont., mileage 176.29 Kingston Subd.
- 121806 August 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Main St., Landsdowne, Ont., mileage 146.70 Kingston Subd.
- 121807 August 23 – Approving changes in the automatic protection at crossing of the C.N.R. and Kingston Twp. Road, Collins Bay, Ont., mileage 180.11 Kingston Subd.
- 121808 August 24 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 121809 August 24 – Authorizing the N.A.R. to remove the station agent at Brownvale, Alta.
- 121810 August 24 – Revoking the authority of Order 78281 to locate Dyment Ltd. flammable liquids near the tracks of the C.N.R., Toronto, Ont.

- 121811 August 24 – Approving changes in the automatic protection at crossing of the C.P.R. and Bruce St., City of Sault Ste. Marie, Ont. mileage 131.65 Thessalon Subd.
- 121812 August 24 – Approving changes in the automatic protection at crossing of the C.N.R. and Elliot Road, Kingston, Ont., mileage 173.49 Kingston Subd.
- 121813 August 24 – Authorizing the Quebec Department of Roads to widen Wharf Road and to install automatic protection at crossing of the C.N.R., Notre Dame du Lac, County of Temiscouata, mileage 50.33 Temiscouata Subd.
- 121814 August 24 – Approving changes in the automatic protection at crossing of the C.N.R. and Division St., Kingston, Ont., mileage 173.89 Kingston Subd.
- 121815 August 24 – Approving changes in the automatic protection at crossing of the C.N.R. and the highway, west of Collins Bay, Twp. of Ernestown, Ont., mileage 184.01 Kingston Subd.
- 121816 August 24 – Amending Order 120071 which authorized the C.N.R. to install automatic protection at crossing of their railway and County Road No. 15, Twp. of Esquesing, County of Halton, Ont., mileage 26.63 Halton Subd.
- 121817 August 24 – Amending Order 117977 which authorized the installation of automatic protection at crossing of the C.N.R. and Second St., Town of Craik, Sask., mileage 71.81 Craik Subd.
- *121818 August 24 – Approving Supplement No. 34 to Canadian Freight Classification filed by the Canadian Freight Association. (See page 1149, 56 B.T.C.)
- 121819 August 24 – Approving changes in the automatic protection at crossing of the C.N.R. and County Road east of Mallorytown, Ont., mileage 137.19 Kingston Subd.
- 121820 August 24 – Revoking the authority of Order 67437 to locate the flammable liquids bulk storage facilities of North Star Oil Ltd. at Elkhorn, Man., C.P.R.
- 121821 August 24 – Approving changes in the automatic protection at crossing of the C.N.R. and Hwy. 15, Rideau, Ont., mileage 168.46, Kingston Subd.
- 121822 August 24 – Revoking the authority of Order 91901 to locate the flammable liquid bulk storage facilities of Canusa Bldg. Products Ltd. near the tracks of the T.H. & B.R., Hamilton, Ont.

- 121823 August 24 – Authorizing changes in the automatic protection at crossing of the C.N.R. and 22nd St., City of Quebec, P.Q., mileage 1.63 St. Raymond Subd. and mileage 0.47 Lairet Subd.
- 121824 August 25 – Approving changes in the automatic protection at crossing of the C.N.R. and Westbrooke Road, Collins Bay, Ont., mileage 180.27 Kingston Subd.
- 121825 August 25 – Authorizing the installation of automatic protection at crossing of the C.N.R. and St. Joseph St., Town of La Tuque, P.Q., mileage 122.28 La Tuque Subd.
- 121826 August 25 – Authorizing the installation of automatic protection at crossing of the Walkley Line and McCarthy Road, City of Ottawa, Ont., mileage 4.54 Walkley Line, C.N.R.
- 121827 August 25 – Authorizing the N.C.C. to lower the grade of Prescott Subd. of the C.P.R. under the overhead bridge carrying Somerset St. across and over the temporary relocated and permanent relocation of the tracks, City of Ottawa, Ont., mileage 0.33 and approving the less than standard overhead clearance at the said location.
- 121828 August 25 – Authorizing the installation of automatic protection at crossing of the C.N.R. and St. Zephirin St., Town of La Tuque, P.Q., mileage 121.60 La Tuque Subd.
- 121829 August 26 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and the highway, Limehouse, Ont., mileage 34.25 Guelph Subd.
- 121830 August 26 – Approving By-law 2244 prohibiting the sounding of engine whistles, Corp. of the Twp. of Markham, Ont., C.N.R.
- 121831 August 26 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Ontario St., City of Welland, Ont., mileage 14.91 Welland Subd.
- 121832 August 26 – Approving the location of Shell Canada Ltd. proposed flammable liquid bulk storage and handling facilities at Manning, Alta., near mileage 55.1 Great Slave Lake Rly. (C.N.R.).
- 121833 August 26 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and handling facilities at Elgin, Man., near mileage 42.0 Hartney Subd., C.N.R.
- 121834 August 26 – Authorizing the installation of automatic protection at crossing of the C.P.R. and Sherman Road, District of North Cowichan, B.C., mileage 0.60 Lake Cowichan Subd.

- 121835 August 29 – Approving tariffs and supplements to tariffs filed by D.A.R. under the provisions of the M.F.R.A.
- 121836 August 29 – Approving tariffs and supplements to tariffs filed by D.A.R. under the provisions of the M.F.R.A.
- 121837 August 29 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Assoc. under the provisions of the M.F.R.A.
- 121838 August 29 – Approving tariffs and supplements to tariffs filed by D.A.R. under the provisions of the M.F.R.A.
- 121839 August 29 – Approving tariffs and supplements to tariffs filed by C.P.R. under the provisions of the M.F.R.A.
- 121840 August 29 – Approving tariffs and supplements to tariffs filed by D.A.R. under the provisions of the M.F.R.A.
- 121841 August 29 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and transfer facilities at La Sarre, P.Q., near mileage 97.34 Taschereau Subd.
- 121842 August 29 – Authorizing the Prince Edward Island Department of Highways to widen Hwy. 1 where it crosses the C.N.R., near Summerside, mileage 44.56 Kensington Subd.

Concise The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the City of St. Jerome, in the Province of Quebec, for authority to construct Castonguay Avenue at grade across the right of way and track of the Canadian National Railways in the City of St. Jerome, in the Province of Quebec, mileage 30.95, Montfort Subdivision.

File No. 26782.1155

September 7, 1966

BEFORE:

J.E. DUMONTIER,
J.M. WOODARD,

*Deputy Chief Commissioner.
Commissioner.*

APPEARANCES:

H.J.G. PYE
and

ROLLAND BOUDREAU }
GILLES WHISELL,

For Canadian National Railways.

City Engineer, St. Jerome.

Heard at St. Jerome, P.Q. on June 28, 1966.

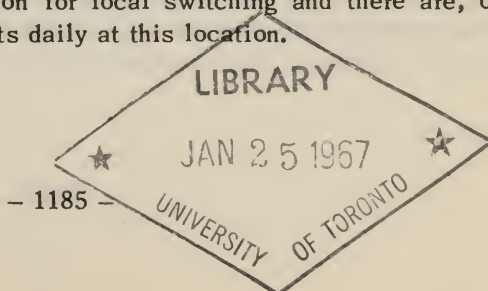
JUDGMENT

DUMONTIER, D.C.C.

The City of St. Jerome, by its resolution dated October 19, 1964, made application for a public level crossing of Castonguay Avenue over the tracks of the Canadian National Railways in the City of St. Jerome.

The Railway opposed the application on the grounds that St. Jerome with its station and other facilities is an important terminal point serving large industrial establishments in the area. In their letter opposing the application, they stated that there is a wayfreight operating six days a week with an engine assigned permanently to this station for local switching and there are, on the average, twelve switching movements daily at this location.

56 B.T.C.



The Railway also referred to a planned industrial park which would immensely increase the volume of rail business with a consequent need for improved support yard facilities. Another reason given by the Railway for opposing the application was that there is already a public crossing at Lebeau Street, 800 feet south of the proposed crossing and one at De Martigny Street, 1200 feet north of Castonguay Avenue and both crossings are protected by automatic flashing lights and bells.

In answer to the Railway's opposition, the City of St. Jerome sent a petition signed by a number of residents of the area affected and stating that if the Railway stopped the pedestrians from crossing the railway at Castonguay Avenue, the residents of the area located west of the railway and opposite Castonguay Avenue would have to make a long detour to reach the business section of the City.

An inspection was made by one of the Board's engineers on June 15, 1965 at which the Railway was represented by the Assistant Superintendent and the Assistant Area Engineer of the Montreal Area, and the City of St. Jerome by two City Councilors and the City Engineer. At that inspection, the representatives of the City explained that it would be convenient for the residents located west of the railway to gain access to the eastern section of Castonguay Avenue without having to make a detour by other street crossings in order to reach the centre of the City. The City's representatives were told by the Railway that the opening of Castonguay Avenue crossing would mean that the Railway would have to relocate their yard entirely, as it would be no longer practical to switch cars at the south end of the yard or at the existing crossing at De Martigny Street. The Railway's representatives stated that since the Railway had no other land available in the area where a Yard of the same capacity and convenience could be built, the crossing at Castonguay Avenue could only be permitted by means of a grade separation.

On February 7th, 1966, the City of St. Jerome passed a Resolution requesting a public hearing with respect to its application.

On June 22nd, the City wrote the Board stating that Castonguay Street is one of the main arteries from the western section into the centre of the City; that De Martigny Street, which is the next street north, is very busy in view of the fact that it is an exit from the Laurentian Autoroute; and Lebeau Street, which is the next street south of Castonguay Avenue, does not lead directly to the centre of the City. It also stated that the main industry in that section fronts on Castonguay Street and, in view of the fact that this street is not open across the railway, truck traffic must use the adjacent residential section. The letter also stated that the Canadian National Railways has only two trains per day and none on Sundays and that shunting is done between 8.30 and 10.00 a.m., when automobile traffic in that section is the lightest. It also mentioned that the

dead-ends on that street create road problems, especially during snow removal operations and its opening could speed fire and police services in that section. Finally, it stated that the unopening of Castonguay Avenue across the railway paralyzes the development of the western section of the City, slows down construction in that section and deprives the City of considerable tax revenue.

At the hearing held at St. Jerome on June 28, the City Engineer, Mr. Gilles Whissell, stated that the main reason for the application to open a grade crossing at the intersection of Castonguay Avenue and the railway, was that the residents of the section located west of the railway have difficulty using De Martigny Street on account of the heavy traffic from the Autoroute interchange. Mr. Whissell also stated that he did not think that there would be any difficulties in the construction of a level crossing at this location and that the City would be agreeable to pay the entire cost of construction and maintenance of the crossing as well as the cost of protection that may be required. He also mentioned that Castonguay Avenue would be a direct connection with the centre of the City of St. Jerome for the section located west of the railway and that without this connection trucks must use streets in the residential section to reach their destination.

Mr. Gerald Cyr, contractor, stated in his testimony that his company had money invested in houses in the residential section west of the railway and that, sometimes, people objected to buying houses in that area because they can only gain access to the business district of the City by crossing the tracks at De Martigny or Lebeau Streets. According to him, the only shunting done by the railway is done between 8.00 and 10.30 in the morning and lasts only a few minutes.

Mr. Rosaire Rochon owns lots in the area affected. He stated in evidence that at the present time there are 135 families in the section directly affected and that when the area is fully developed, there will be approximately 400 families. Mr. Rochon also stated that the fact that there is no crossing at Castonguay Avenue slows down the development of the residential area west of the track and prevents the City from increasing its tax revenues.

Mr. Claude Labarre, Assistant Engineer for the C.N.R. Montreal Area, testified to the effect that there are four tracks at the location where the City wishes to build a level crossing, which means that shunting operations would have to be made across Castonguay Avenue. Mr. Labarre stated that this would be dangerous for the public and an inconvenience for automobile traffic, that it would also make the operations of the Railway more difficult and that if a crossing has to be built at this location, it should be by means of a grade separation. According to his calculations, pedestrians must walk an additional half-mile in order to reach the business section of the City because there is no crossing at Castonguay Avenue.

Mr. J.C. Foss, Master Mechanic and Supervisor of switching operations for the Montreal Area, stated that train No. 588 leaves St. Jerome in the morning and returns as train No. 589 at night. The train is ordered for 7.30 a.m. and leaves between 9.00 and 9.30. In the evening, the train comes in anytime between 6.00 and 8.00 p.m. According to his testimony, the train normally consists of 6 to 10 cars. Coming in at night, the van and the engine are separated from the train and this requires four movements at the location of the proposed crossing. In the morning, switching operations are made in order to distribute the cars to various industries. According to Mr. Foss, the trains do not travel more than 8 to 10 miles per hour and shunting operations in the morning generally last from 7.15 to 8.45.

Mr. Guy Gervais, representative of the industrial department of the C.N.R., stated that the City of St. Jerome had reserved sections for industrial expansion and the C.N.R. already serves two industries established in this region. He also mentioned that after the abandonment of portion of the Montfort Subdivision in 1962, a portion of the line had been retained to serve the industries which may be established in the industrial zone.

In his summation, Mr. Pye, Counsel for the C.N.R., suggested that if a crossing were to be made only for pedestrians the Railway might be able to work some arrangement with the City by which the crossing could be closed at the time that the shunting operations take place.

Mr. Pye feared that if a crossing were established for vehicular traffic, the City would be filing complaints with the Board about the excessive ringing of the protection at rush hours and that such a crossing would seriously hamper the switching operations and create a hazard.

Mr. Pye requested that the application be denied and stated that this was not an unreasonable request and that he thought it would be in the best interest.

The City of St. Jerome wishes to build a public crossing that would permit Castonguay Avenue to become a direct connection between the new residential district west of the tracks and the business section of the city for both vehicular and pedestrian traffic.

East of the track, Castonguay Avenue is fully developed and extends for some 1800 feet to its connection with Labelle Street, which is in the business section of the City. It extends approximately the same distance through the main residential area west of the tracks. Until a few years ago, the Railway Station Building was an obstacle to its extension across the railway right of way but, now that the old station has been removed, the City considers that there is nothing to prevent the construction of the proposed crossing.

I cannot understand how the Railway can seriously argue that the establishment of a level crossing at this point would mean the relocation of their yard and

since there is no other land available for such a yard, that the crossing should be permitted only by means of a grade separation. The present yard is at the end of the Montfort Subdivision and the only railway traffic in the yard is a wayfreight that comes in anytime between 6 and 8 p.m. with 6 to 10 cars. It leaves in the morning between 7.30 and 9.30 after completing its shunting operations. The speed of trains does not exceed 8 to 10 miles per hour and the number of train movements daily at the location of the proposed crossing is about 12.

The proposed crossing would be located at the south end of the yard so that its capacity, which is more than sufficient for present needs and foreseeable future, would not be materially reduced. The expected highway traffic will be light and should not interfere to a great extent with the shunting operations.

The Railway has also argued that a crossing at this location would be too dangerous. Pedestrians have crossed at this location and will continue to cross even if a grade crossing is not authorized. I believe that the danger to pedestrians will be reduced if a proper level crossing is constructed and is adequately protected.

The City has agreed to pay the cost of construction and maintenance at the crossing as well as the cost of protection that may be required.

I consider that the grade crossing requested is needed in the interest of the public and, in my opinion, the reasons given by the Railway to oppose the application are not such as to warrant refusal of the crossing.

An Order will issue authorizing the construction of a grade crossing at the intersection of Castonguay Avenue and the tracks of the Canadian National Railways at mileage 30.95 Montfort Subdivision in the City of St. Jerome and the installation of suitable protection by automatic signals. The cost of construction and maintenance of the crossing as well as the cost of installation, maintenance and operation of the automatic protection to be borne and paid by the City of St. Jerome.

(Signed) J.E. DUMONTIER.

I CONCUR:

(Signed) JOHN M. WOODARD,

OTTAWA, September 7, 1966.

ORDER NO. 121929

WEDNESDAY, THE 7TH DAY OF
SEPTEMBER, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.

J.M. WOODARD,
Commissioner.

IN THE MATTER OF the application of the City of St. Jerome, in the Province of Quebec, for authority to construct Castonguay Avenue at grade across the right of way and track of the Canadian National Railways in the City of St. Jerome, in the Province of Quebec, mileage 30.95 Montfort Subdivision:

File No. 26782.1155

UPON hearing the application at a sittings of the Board in St. Jerome, P.Q., on June 28th, 1966, in the presence of Counsel for the Canadian National Railways and Gilles Whissell, City Engineer, St. Jerome, P.Q., and upon reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

1. The City of St. Jerome is authorized, at its own expense, to construct and maintain Castonguay Avenue at grade across the right of way and tracks of the Canadian National Railways in the City of St. Jerome, in the Province of Quebec, at mileage 30.95 Montfort Subdivision.
2. Before construction of the said crossing is commenced, the City of St. Jerome shall submit plans of the proposed crossing in accordance with the provisions of General Order No. E-4 for the approval of an Engineer of the Board.
3. The said crossing shall be constructed in compliance with the Requirements of the Board Affecting Highway Crossings.
4. Upon completion of the said crossing the City of St. Jerome shall notify the Canadian National Railways and the Board by registered mail of such completion.
5. Within ninety days from the date of receipt of the said registered notice, the Canadian National Railways shall install, and shall thereafter maintain, flashing light signals and bell at the said crossing.
6. The said protection shall be installed in compliance with the provisions of General Order No. E-6.

7. The cost of installation, maintenance and operation of the said automatic protection shall be borne and paid by the City of St. Jerome.

8. The said crossing shall not be opened for the use of the public until the said flashing light signals and bell are installed and placed in operation.

9. When the said flashing light signals and bell are placed in operation no engine, car or train of the Canadian National Railways shall exceed a speed of ten miles an hour when it is approaching and when it is within 300 feet of the said crossing.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

RELATIVE à la requête de la ville de Saint-Jérôme, dans la province de Québec, en vue d'obtenir l'autorisation de construire un passage à niveau au croisement de l'avenue Castonguay et de l'emprise et des voies ferrées des chemins de fer Nationaux du Canada dans la ville de Saint-Jérôme, dans la province de Québec, au point milliaire 30.95 de la subdivision de Montfort.

*Dossier n° 26782.1155
le 7 septembre 1966*

DEVANT:

J.-E. DUMONTIER,
J.M. WOODARD,

*Commissaire en chef suppléant
Commissaire*

ONT COMPARU:

H.J.G. PYE
et
ROLLAND BOUDREAU }
GILLES WHISELL,

*Pour les chemins de fer Nationaux
du Canada*

Ingénieur municipal, Saint-Jérôme

Audience tenue à: Saint-Jérôme (P.Q.), le 28 juin 1966.

JUGEMENT

DUMONTIER, C.C.S.

En vertu d'une résolution en date du 19 octobre 1964, la ville de Saint-Jérôme a présenté une requête en vue de la construction d'un passage à niveau public au croisement de l'avenue Castonguay et des voies ferrées des chemins de fer Nationaux du Canada dans la ville de Saint-Jérôme.

Le Chemin de fer s'est opposé à la requête en alléguant que la ville de Saint-Jérôme, en raison de sa gare et de ses autres installations, constitue un important terminus qui dessert d'importants établissements industriels dans la région. Dans la lettre qu'il a fait parvenir à la Commission pour s'opposer à la requête, il alléguait qu'un train collecteur y circulait six jours par semaine, qu'une locomotive était affectée en permanence à cette gare pour y effectuer les manoeuvres et qu'il y a en moyenne chaque jour à cet endroit douze mouvements de manoeuvre.

Le Chemin de fer mentionnait également le projet d'aménagement d'un parc industriel qui augmenterait considérablement le volume du trafic ferroviaire et

qui nécessiterait par conséquent l'amélioration des installations auxiliaires de la cour de triage. Le Chemin de fer a également allégué pour s'opposer à la requête qu'il existe déjà un passage public à la rue Lebeau, soit à 800 pieds au sud du passage projeté, et un autre à la rue De Martigny, soit à 1,200 pieds au nord de l'avenue Castonguay, et que les deux passages sont dotés d'un système de protection, en l'occurrence des signaux clignotants et des sonneries automatiques.

En réponse à l'opposition manifestée par le Chemin de fer, la ville de Saint-Jérôme a fait parvenir une requête signée par un certain nombre de personnes domiciliées dans le secteur en cause et alléguant que si le Chemin de fer empêchait les piétons de traverser la voie ferrée à l'avenue Castonguay, les résidents du secteur situé à l'ouest de la voie ferrée et en face de l'avenue Castonguay devraient faire un long détour pour atteindre le centre des affaires de la ville.

Le 15 juin 1965, un des ingénieurs de la Commission a effectué une inspection à laquelle participaient à titre de représentants du Chemin de fer le Surintendant adjoint et l'Ingénieur régional adjoint de la région de Montréal et comme représentants de la ville de Saint-Jérôme, deux échevins et l'ingénieur municipal. Lors de cette inspection, les représentants de la ville ont expliqué qu'il serait commode pour les personnes domiciliées à l'ouest du Chemin de fer de se rendre dans la partie est de l'avenue Castonguay sans avoir à faire un détour par d'autres passages sur d'autres rues afin d'atteindre le centre de la ville. Les représentants du Chemin de fer ont déclaré aux représentants municipaux que l'ouverture du passage de l'avenue Castonguay obligerait le Chemin de fer à déplacer complètement sa cour de triage, étant donné qu'il ne serait plus pratique de manoeuvrer les wagons à l'extrémité sud de la cour ni au passage actuel de la rue De Martigny. Les représentants du Chemin de fer ont déclaré, qu'étant donné que le Chemin de fer ne possédait pas dans le secteur d'autres terrains pouvant servir à l'aménagement d'une cour aussi vaste et aussi commode, le passage de l'avenue Castonguay ne pourrait être assuré qu'au moyen d'un étagement de voies.

Le 7 février 1966, la ville de Saint-Jérôme adoptait une résolution par laquelle elle demandait la tenue d'une audience publique relativement à sa requête.

Le 22 juin, la ville faisait parvenir à la Commission une lettre dans laquelle elle déclarait que la rue Castonguay est l'une des principales artères reliant la partie ouest au centre de la ville; que la rue De Martigny, qui est la rue suivante au nord, est très achalandée, étant donné qu'elle est reliée à une sortie de l'auto-route des Laurentides; que la rue Lebeau, qui est la rue suivante au sud de l'avenue Castonguay, ne mène pas directement au centre de la ville. Elle déclarait également que la façade de l'industrie principale dans ce secteur se trouve

sur la rue Castonguay, et étant donné que cette rue ne traverse pas la voie ferrée, les camions doivent emprunter les rues du quartier résidentiel adjacent. La ville déclarait également dans sa lettre que les chemins de fer Nationaux du Canada n'exploitaient au passage projeté que deux trains par jour et aucun le dimanche et que les manoeuvres s'effectuent entre 8h.30 et 10 heures de la matinée, alors que le trafic-automobile dans ce secteur est le plus faible. Elle affirmait également que les culs-de-sac sur cette rue créaient des problèmes de circulation routière, surtout à l'occasion des opérations de déneigement, et que son ouverture pourrait accélérer les services d'incendie et de police dans ce secteur. Enfin, elle déclarait que la non-ouverture de l'avenue Castonguay sur le chemin de fer paralyse l'expansion du secteur ouest de la ville, ralentit les travaux de construction dans ce secteur et prive la ville d'impôts considérables.

Lors de l'audience tenue à Saint-Jérôme le 28 juin, l'ingénieur municipal, M. Gilles Whissell, a déclaré que la raison principale motivant la requête en vue de la construction d'un passage à niveau au croisement de l'avenue Castonguay et du chemin de fer était que les personnes domiciliées dans le secteur situé à l'ouest du chemin de fer peuvent difficilement utiliser la rue De Martigny en raison de la circulation dense en provenance de l'échangeur de l'autoroute. M. Whissell a également déclaré qu'à son avis il n'y aurait aucune difficulté à construire un passage à niveau à cet endroit et que la ville convenait d'assumer tous les frais de la construction et de l'entretien du passage ainsi que les frais de l'installation du système de protection approprié. Il a également mentionné que l'avenue Castonguay relierait directement le secteur à l'ouest du chemin de fer au centre de la ville de Saint-Jérôme et qu'en l'absence de cette liaison les camions doivent emprunter les rues situées dans le quartier résidentiel afin d'atteindre leur destination.

M. Gérald Cyr, entrepreneur, a déclaré dans son témoignage que sa compagnie avait investi de l'argent dans la construction de maisons dans le quartier résidentiel situé à l'ouest du chemin de fer et qu'il arrivait parfois que les gens ne voulaient pas acheter de maison dans ce secteur parce qu'ils ne peuvent se rendre dans le centre des affaires de la ville qu'en traversant les voies ferrées aux rues De Martigny ou Lebeau. D'après M. Cyr, les seules manoeuvres effectuées par le Chemin de fer se font entre 8h. et 10h.30 de la matinée et ne durent que quelques minutes.

M. Rosaire Rochon est propriétaire de lots dans le secteur en cause. Il a déclaré au cours de son témoignage qu'à l'heure actuelle, 135 familles demeurent dans le secteur directement en cause et qu'il y en aura environ 400 lorsque le secteur sera complètement aménagé. M. Rochon a également déclaré que l'absence d'un passage à l'avenue Castonguay ralentit l'expansion du quartier résidentiel situé à l'ouest de la voie ferrée et empêche la ville d'augmenter le produit de ses impôts.

M. Claude Labarre, ingénieur adjoint de la région de Montréal du National-Canadien, a déclaré dans son témoignage qu'il y a quatre voies ferrées à l'endroit où la ville désire construire un passage à niveau, ce qui veut dire que les trains devront traverser l'avenue Castonguay au cours de leurs manoeuvres. M. Labarre a déclaré que cela constituerait un danger pour le public et entraverait la circulation automobile, que les opérations du chemin de fer seraient rendues plus difficiles et que s'il fallait aménager un passage à cet endroit, il fallait le faire au moyen d'un étagement de voies. D'après ses calculs, les piétons doivent parcourir un demi-mille de plus afin d'atteindre le quartier des affaires de la ville parce qu'il n'y a pas de passage à l'avenue Castonguay.

M. J.C. Foss, maître-mécanicien et surveillant des opérations de manoeuvres pour la région de Montréal, a déclaré que le train n° 588 quitte Saint-Jérôme le matin et y revient le soir comme train n° 589. Le train doit être en place à 7h.30 du matin et quitter Saint-Jérôme entre 9h. et 9h.30. Dans la soirée, le train arrive entre 6h. et 8h. D'après son témoignage, le train compte habituellement de six à dix wagons. A son arrivée durant la soirée, le fourgon et la locomotive sont séparés du train, ce qui nécessite quatre manoeuvres à l'endroit du passage projeté. Le matin, les manoeuvres sont effectuées en vue de distribuer les wagons aux diverses industries. D'après M. Foss, les trains ne circulent pas à plus de huit à dix milles à l'heure et les manoeuvres exécutées durant la matinée ont lieu habituellement de 7h.15 à 8h.45.

M. Guy Gervais, représentant du département industriel du National-Canadien, a déclaré que la ville de Saint-Jérôme avait réservé certains secteurs à des fins d'expansion industrielle, et que le National-Canadien dessert déjà deux industries établies dans cette région. Il a également signalé qu'après l'abandon en 1962 de l'exploitation d'une partie de la subdivision de Montfort, on avait conservé une partie de la ligne en vue de desservir les industries qui pourraient s'établir dans la zone industrielle.

Dans son exposé, M. Pye, avocat-conseil du National-Canadien, a laissé entendre que si le passage projeté n'était réservé qu'aux piétons, le Chemin de fer pourrait peut-être s'entendre avec la ville pour fermer le passage lors des manoeuvres.

M. Pye craignait que si un passage était établi pour la circulation automobile, la ville se plaindrait à la Commission de l'utilisation excessive aux heures de pointe des sonneries du système de protection. A son avis, l'aménagement d'un pareil passage entraverait les manoeuvres et constituerait une source de danger.

M. Pye a demandé que la requête soit rejetée; il a affirmé que sa demande était raisonnable et qu'à son avis elle était dans le meilleur intérêt de tous.

La ville de Saint-Jérôme désire construire un passage public à l'usage des véhicules et des piétons qui permettrait à l'avenue Castonguay de relier

directement le nouveau quartier résidentiel situé à l'ouest des voies ferrées et le centre des affaires de la ville.

A l'est de la voie ferrée, l'avenue Castonguay est complètement aménagée et se prolonge sur une distance d'environ 1,800 pieds jusqu'à ce qu'elle se raccorde à la rue Labelle, située dans le quartier des affaires de la ville. Elle se prolonge sur environ la même distance dans le principal quartier résidentiel situé à l'ouest des voies ferrées. Jusqu'à il y a quelques années, l'immeuble de la gare entravait le prolongement de l'avenue Castonguay sur l'emprise du chemin de fer; maintenant que l'ancienne gare a été démolie, la ville juge qu'aucun obstacle n'empêche la construction du passage projeté.

Je ne puis comprendre comment le Chemin de fer puisse être justifié d'alléguer que l'aménagement d'un passage à niveau à cet endroit l'obligerait à déplacer sa cour de triage et que le passage devrait prendre la forme d'un étagement de voies, étant donné qu'aucun autre terrain n'est disponible pour l'aménagement de la cour en question. La cour actuelle est située à l'extrémité de la subdivision de Montfort et la seule circulation ferroviaire dans la cour est celle d'un train collecteur qui compte de six à dix wagons et qui arrive entre 6h. et 8h. du soir. Il repart le matin entre 7h.30 et 9h.30 après avoir effectué ses manoeuvres. La vitesse des trains ne dépasse pas 8 à 10 milles à l'heure et le nombre quotidien des mouvements de train sur l'emplacement du passage projeté est d'environ douze.

Étant donné que le passage projeté serait situé à l'extrémité sud de la cour de triage, la capacité de cette dernière qui est plus que suffisante pour répondre aux besoins actuels et à ceux qu'on peut prévoir pour l'avenir, ne serait pas réduite de façon importante. La circulation routière prévue sera faible et ne devrait pas entraver sensiblement les manoeuvres.

Le Chemin de fer a également allégué qu'un passage aménagé à cet endroit serait trop dangereux. Les piétons ont traversé à cet endroit et continueront d'y traverser même si la construction d'un passage à niveau n'est pas autorisée. A mon avis, les piétons courront moins de danger si on y construit un passage à niveau muni d'un système de protection approprié.

La ville a convenu d'assumer le coût de la construction et les frais d'entretien du passage ainsi que les frais de l'installation du système de protection approprié.

Je juge que la construction du passage à niveau demandé s'avère nécessaire dans l'intérêt du public et que les raisons données par le Chemin de fer pour s'opposer à la requête n'en justifient pas le refus.

La Commission rendra une ordonnance en vue d'autoriser la construction d'un passage à niveau au croisement de l'avenue Castonguay et des voies ferrées des chemins de fer Nationaux du Canada au point milliaire 30.95 de la subdivision de Montfort dans la ville de Saint-Jérôme ainsi que l'installation

d'un système de protection automatique approprié au moyen de signaux. Le coût de la construction et les frais d'entretien du passage ainsi que les frais de l'installation, de l'entretien et du fonctionnement du système de protection automatique seront à la charge de la ville de Saint-Jérôme.

Le Commissaire en chef suppléant,
(Signé) J.-E. Dumontier.

J'agréé

(Signé) J.M. Woodard

Ottawa, le 7 septembre 1966.

ORDONNANCE N° 121929

MERCREDI LE 7 SEPTEMBRE 1966

J.E. DUMONTIER,
commissaire en chef suppléant,
J.M. WOODARD,
commissaire.

RELATIVE à la requête de la ville de Saint-Jérôme, dans la province de Québec, en vue d'obtenir l'autorisation de construire un passage à niveau au croisement de l'avenue Castonguay et de l'emprise et de la voie ferrée des chemins de fer Nationaux du Canada dans la ville de Saint-Jérôme, dans la province de Québec, au point milliaire 30.95 de la subdivision de Montfort:

Dossier N° 26782.1155

APRÈS audition de la requête à une audience de la Commission tenue à Saint-Jérôme (P.Q.), le 28 juin 1966, en présence des avocats des chemins de fer Nationaux du Canada et de M. Gilles Whissell, ingénieur municipal, Saint-Jérôme (P.Q.), et après lecture des pièces déposées—

IL EST PAR LES PRÉSENTES ORDONNÉ CE QUI SUIT:

1. La ville de Saint-Jérôme est autorisée à construire et à entretenir à ses frais, un passage à niveau au croisement de l'emprise et des voies ferrées des chemins de fer Nationaux du Canada dans la ville de Saint-Jérôme, dans la province de Québec, au point milliaire 30.95 de la subdivision de Montfort.

2. Avant que la construction dudit passage ne soit entreprise, la ville de Saint-Jérôme devra présenter des plans du passage projeté, conformément aux prescriptions de l'ordonnance générale n° E-4, à l'approbation d'un ingénieur de la Commission.

3. Ledit passage sera construit conformément aux prescriptions de la Commission relatives aux croisements de voies publiques.

4. Dès l'achèvement dudit passage, la ville de Saint-Jérôme devra en aviser les chemins de fer Nationaux du Canada et la Commission par lettre recommandée.

5. Dans les quatre-vingt-dix jours de la date de réception dudit avis, les chemins de fer Nationaux du Canada devront installer et, par la suite, entretenir des signaux clignotants et une sonnerie audit passage.

6. Ledit système de protection sera installé conformément aux prescriptions de l'ordonnance générale n° E-6.

7. Le coût de l'installation et les frais d'entretien et de fonctionnement dudit système de protection automatique seront à la charge de la ville de Saint-Jérôme.

8. Ledit passage ne sera pas ouvert à l'usage du public tant que lesdits signaux clignotants et ladite sonnerie n'auront pas été installés et mis en service.

9. Dès la mise en service desdits signaux clignotants et de ladite sonnerie, les locomotives, wagons ou trains des chemins de fer Nationaux du Canada ne devront pas circuler à une vitesse supérieure à dix milles à l'heure lorsqu'ils s'approchent dudit passage ou qu'ils s'en trouveront à moins de 300 pieds.

Le Commissaire en chef suppléant,
J.-E. DUMONTIER.

Canada The Board of

UNIVERSITY OF TORONTO

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 122118

MONDAY, THE 26TH DAY OF
SEPTEMBER, A.D. 1966.

IN THE MATTER OF General
Order No. 0-10 Railway Safety
Appliance Standards:

ROD. KERR, Q.C.,
Chief Commissioner.

File No. 11654

H.H. GRIFFIN,
Asst. Chief Commissioner.

J.E. DUMONTIER,
Deputy Chief Commissioner.

W.R. IRWIN,
Commissioner.

A.S. KIRK,
Commissioner.

IT IS HEREBY ORDERED AS FOLLOWS:

General Order No. 0-10 is amended by:

1. Deleting in the first paragraph the words "railway equipment" and substituting therefor the words "rolling stock".

2. By numbering the said first paragraph as number 1 and by adding the following paragraphs numbers 2 and 3:

"2. Notwithstanding the provisions of paragraph numbered 1:

(a) The regulations contained in clauses 1 to 112 inclusive apply in respect of box and other house cars built or rebuilt prior to October 1, 1966.

(b) The regulations contained in clause 112A shall apply in respect of box and other house cars built or rebuilt on and after October 1st, 1966, or under construction prior thereto.

3. The regulations contained in clause 112A shall apply to all box and other house cars in service on and after April 1st, 1974."

3. By adding immediately after clause 112 the following clause numbered 112A:

112A BOX AND OTHER HOUSE CARS BUILT NEW OR REBUILT AFTER OCTOBER 1, 1966, OR UNDER CONSTRUCTION PRIOR THERETO, EXCEPT CARS EQUIPPED WITH ROOF HATCHES.

- | | |
|------------|--|
| NUMBER | A1. (1) Each car shall be equipped with an efficient vertical wheel hand-brake which shall operate in harmony with the power-brake thereon. |
| | (2) The hand-brake may be of any efficient design, but must provide a total braking force applied to brake shoes not less than the total force applied to the brake shoes by the brake cylinders at 50 pounds per square inch. |
| DIMENSIONS | A2. (1) The brake wheel may be deep or shallow, of malleable iron, wrought iron, steel, or other material of equivalent strength. |
| | (2) Overall diameter of brake wheel nominally twenty-two (22) inches. |
| | (3) Depth of brake wheel hub shall be two and five-eighths (2-5/8) inches with square taper shaft fit, taper two (2) inches in twelve (12) inches with small end of taper fit seven-eighths (7/8) inches. |
| | (4) Brake wheel and drum shall be arranged so that both will revolve when applying and gradually releasing the hand-brake. Hand-brake shall be provided with means to prevent application of the brake by winding in a counter-clockwise direction. |
| | (5) All chains shall be not less than nine-sixteenths (9/16) inch BBB coil chain. |
| | (6) All hand-brake rods shall be not less than three-fourths (3/4) inch diameter. |
| LOCATION | A3. (1) The hand-brake shall be so located that it can be safety operated from horizontal end platform while car is in motion. |
| | (2) The brake-shaft shall be located on end of car, to the left of and not less than seventeen (17) nor more than twenty-two (22) inches from centre and not less than twenty-six (26) nor more than thirty-six (36) inches above top of end platform tread. |

NOTE: Cars with roofs 16 feet 10 inches or more above top of rail, brake-shaft to be located to left of centre and not more than 24 inches from left side of car.

MANNER OF

- APPLICATION A4. (1) There shall be not less than four (4) inches clearance around rim of brake wheel.
- (2) Brake wheel shall be held in position on brake-shaft by a nut on a threaded extended end of brake-shaft, said threaded portion shall be not less than three-fourths ($\frac{3}{4}$) of an inch in diameter; said nut shall be secured by riveting over or by the use of a lock-nut or suitable cotter.
- (3) Outside edge of brake-wheel shall be not less than four (4) inches from a vertical plane parallel with end of car and passing through the inside face of knuckle when closed with coupler-horn against the buffer-block or end sill.
- (4) Hand-brake housing shall be securely fastened to car.
- (5) Brake-shaft shall be arranged with a square fit at its outer end to secure the hand-brake wheel; said square fit shall be not less than seven-eighths ($\frac{7}{8}$) of an inch square. Square fit taper: nominally two (2) in twelve (12) inches. (See Plate A).

SILL STEPS

- NUMBER A5. Four (4).
- DIMENSIONS A6. Minimum cross-sectional area one-half ($\frac{1}{2}$) by one and one-half ($1\frac{1}{2}$) inches, or equivalent, of wrought iron, steel, or other material of equivalent strength. Minimum length of tread, ten (10), preferably twelve (12) inches. Minimum clear depth, eight (8) inches.
- LOCATION A7. (1) One (1) near each end of each side of car, so that there shall be no more than eighteen (18) inches from end of car to centre of tread of sill step.
- (2) Outside edge of tread of step shall be not more than four (4) inches inside of face of side of car, preferably flush with side of car.
- (3) Tread shall be not more than twenty-four (24), preferably not more than twenty-two (22) inches above the top of rail.

MANNER OF

- APPLICATION A8. (1) Sill steps exceeding twenty-one (21) inches in depth shall have an additional tread.

- (2) Sill steps shall be securely fastened with not less than one-half ($\frac{1}{2}$) inch bolts with nuts outside (when possible) and riveted over, or with not less than one-half ($\frac{1}{2}$) inch rivets.

END APPLIANCES CLEARANCE

- A9. No part of car above end-sills within thirty (30) inches from side of car, EXCEPT buffer block, brake shaft, brake wheel, end platform, horizontal end handholds, or uncoupling lever shall extend to within twelve (12) inches of a vertical plan parallel with end of car and passing through the inside face of knuckle, when closed with the coupler horn against the buffer block or end sill and cushioning device (if used) at full buff, and no other part of end of car or fixtures on same above end sills, other than exceptions herein noted shall extend beyond outer face of buffer block.

SIDE HANDHOLDS

- | | | |
|-----------------------|------|--|
| NUMBER | A10. | Sixteen (16). |
| DIMENSIONS | A11. | Minimum diameter, five-eighths ($\frac{5}{8}$) of an inch, wrought iron, steel, or other material of equivalent strength. Minimum clear length, sixteen (16) inches, preferably twenty-four (24) inches. Minimum clearance, two (2), preferably two and one-half ($2\frac{1}{2}$) inches. |
| LOCATION | A12. | Horizontal:
Four (4) near each end and on each side of car spaced not more than nineteen (19) inches apart and with the bottom handhold located not more than twenty-one (21) inches from top tread of sill step, and top handhold shall coincide in height with top end-handhold, a variation of two (2) inches being allowed. Spacing of side handholds shall be uniform within a limit of two (2) inches from top handhold to bottom handhold. Clearance of outer ends of handholds shall be not more than eight (8) inches from end of car. |
| MANNER OF APPLICATION | A13. | Side handholds shall be securely fastened with not less than one-half ($\frac{1}{2}$) inch bolts with nuts outside (when possible) and riveted over or with not less than one-half ($\frac{1}{2}$) inch rivets. Each bottom handhold shall have foot guard or upward projection not less than two (2) inches in height near inside end. |

END HANDHOLDS

NUMBER	A14.	Sixteen (16).
DIMENSIONS	A15.	(1) Minimum diameter, five-eighths (5/8) of an inch, wrought iron, steel, or other material of equivalent strength. (2) Minimum clear length, sixteen (16) inches, preferably twenty-four (24) inches. (3) Minimum clearance, two (2), preferably two and one-half (2½) inches.
LOCATION	A16.	Horizontal: Four (4) near each side and on each end of car spaced not more than nineteen (19) inches apart and with the bottom handhold located not more than twenty-one (21) inches from top tread of still step, and top handhold shall coincide in height with end platform handholds, a variation of two (2) inches being allowed. Clearance of outer ends of handholds shall be not more than eight (8) inches from side of car.
MANNER OF APPLICATION	A17.	End handholds shall be securely fastened with not less than one-half (½) inch bolts with nuts outside (when possible) and riveted over, or with not less than one-half (½) inch rivets. Each bottom handhold shall have foot guard or upward projection not less than two (2) inches in height near inside end.

NOTE: Not required on cars with roofs 16 feet 10 inches or more above top of rail when vertical and horizontal end handholds as specified in note following Section A 25 are applied.

END PLATFORMS

NUMBER	A18.	Two (2).
DIMENSIONS	A19.	Width not less than eight (8) inches, length, not less than sixty (60) inches.
LOCATION	A20.	One (1) centred on each end of car not more than eight (8) inches above top of centre sill.
MANNER OF APPLICATION	A21.	Each end platform shall be securely supported by not less than three (3) metal braces having a minimum cross sectional area of three-eighths (3/8) by one and one-half (1½) inches or equivalent, which shall be securely fastened to body of car with not less than one-half (½) inch bolts or rivets.

NOTE: Cars with roofs 16 feet 10 inches or more above top of rail will have end platforms not less than 10 inches in width, length, full width of car and supported by not less than 4 metal braces.

Where conventional draft gear or cushioning device having longitudinal travel less than six (6) inches is used the outside edge of each end platform shall be not less than twelve (12) inches from a vertical plane parallel with end of car and passing through the inside face of knuckle when closed with coupler horn against buffer block. Where cushioning device having longitudinal travel six (6) inches or more is used, the outside edge of each end platform shall be not less than six (6) inches from a vertical plane parallel with end of car and passing through the inside face of knuckle when closed with end still and cushioning device at full buff. End platform shall be made of wood or material which provides the same or a greater degree of safety than wood, of one and one-eighth (1-1/8) inches thickness. When made of material other than wood, the tread surface shall be of anti-skid design and constructed with sufficient open space to permit the elimination of snow and ice from the tread surface.

HORIZONTAL END PLATFORM HANDHOLDS

NUMBER	A22.	Two (2).
DIMENSIONS	A23.	(1) Minimum diameter, five-eighths (5/8) of an inch, wrought iron, steel, or other material of equivalent strength. (2) Minimum clearance, two (2), preferably two and one-half (2½) inches. (3) Minimum clear length sixty (60) inches. When security of attachment requires, an extra supporting leg may be applied near centre of clear length.
LOCATION	A24.	One (1) on each end of car above end-platform. Outer legs shall be not more than six (6) inches from inner legs of top end handholds. Height above tread of end platform: not less than forty-eight (48) nor more than sixty (60) inches.
MANNER OF APPLICATION	A25.	End platform handholds shall be securely fastened with not less than one-half (½) inch bolts with nuts outside (when possible) and riveted over, or with not less than one-half (½) inch rivets.

NOTE: Cars with roofs 16 feet 10 inches or more above top of rail will have horizontal end platform handholds extending across each end of car with clearance at each end of not more than 4 inches from side of car supported by an extra leg near centre of handholds, and with vertical and horizontal end handholds as follows:

VERTICAL END HANDHOLDS

- (1) NUMBER: Four (4).
- (2) DIMENSIONS: Minimum diameter five-eighths ($5/8$) of an inch, wrought iron, steel, or other material of equivalent strength. Minimum clearance two (2), preferably two and one-half ($2\frac{1}{2}$) inches.
- (3) LOCATION: One (1) on each side of each end of car, not more than four (4) inches from side of car, extending downward from end of horizontal end-platform handhold to within eight (8) inches above tread of end-platform. One (1) continuous handhold with two (2) right angle handholds, may take the place of two (2) specified vertical end handholds and one (1) horizontal end-platform handhold, provided the dimensions and location coincide, and extra legs at points of angle and centre are provided and securely fastened to car.

HORIZONTAL END HANDHOLDS

- (1) NUMBER: Four (4).
- (2) DIMENSIONS: (1) Minimum diameter five-eighths ($5/8$) of an inch, wrought iron, steel or other material of equivalent strength.
- (2) (a) Minimum clear length, sixteen (16) inches, preferably twenty-four (24) inches.
- (b) Notwithstanding para. (a) of this subsection, a handhold fourteen (14) inches in length may be used where it is impossible to use one sixteen (16) inches in length.
- (c) Minimum clearance, two (2) preferably two and one-half ($2\frac{1}{2}$) inches.
- (3) LOCATION: One (1) near each side of each end of car on outer edge of end platform projecting downward with clearance of outer end not more than sixteen (16) inches from side of car.
- (4) MANNER OF APPLICATION: Horizontal end-handholds shall be securely fastened with not less than one-half ($\frac{1}{2}$) inch bolts with nuts

outside (when possible) and riveted over, or with not less than one-half ($\frac{1}{2}$) inch rivets.

UNCOUPLING LEVERS

NUMBER	A26.	Two (2).
DIMENSIONS	A27. (1)	Handles of uncoupling levers EXCEPT those shown on Plate "B" or of similar design, shall be not more than six (6) inches from sides of car.
	(2)	Uncoupling levers of design shown on Plate "B" and of similar designs shall conform to the following prescribed limits:
	(a)	Handles shall be not more than twelve (12), preferably nine (9) inches from sides of cars.
	(b)	Centre lift arms shall be not less than seven (7) inches long.
	(c)	Centre of eye at end of centre lift arm shall be not more than three and one-half ($3\frac{1}{2}$) inches beyond centre of eye of uncoupling pin of coupler when horn of coupler is against the buffer block or end sill (see Plate "B").
	(d)	Ends of handles shall extend not less than four (4) inches below bottom of end sill or shall be so constructed as to give a minimum clearance of two (2) inches around handle (see Plate "B").
	(e)	Minimum drop of handles shall be twelve (12) inches, maximum, fifteen (15) inches over all. (see Plate "B").
	(f)	Handles of uncoupling levers of the "rocking" or "push down" type shall be not less than eighteen (18) inches from top of rail when lock block has released knuckle, and a suitable stop shall be provided to prevent inside arm from flying up in case of breakage.
LOCATION	A28.	One (1) on each end of car. When single lever is used, it shall be placed on left side of end of car.
	A29.	PAINTING AND STENCILLING
		(applies to cars with roofs 16 feet 10 inches or more above top of rail <i>ONLY</i>)
		That portion of each end of car more than fifteen (15) feet above top of rail shall be painted with contrasting reflectorized paint and shall bear the words "No Running Board" to the left of centre and "Excess Height

Car" to the right of centre. Lettering to be not less than three (3) inches high. On each side-sill near end corner there shall be painted a yellow rectangular area with a three-fourths ($\frac{3}{4}$) inch black border containing the words "This Car Excess Height - No Running Board". Lettering to be not less than one and one-half ($1\frac{1}{2}$) inches high. When a car is equipped with centre sill or underframe cushioning device having more than twelve (12) inches longitudinal impact absorbing travel, and a part of the uncoupling device and/or brake pipe is located parallel to the exposed end of the centre sill, such part shall provide at least two (2) inches of clearance near the coupler of sufficient length to permit use as a handhold during air hose coupling operation and the top of exposed ends of sliding centre sill shall be coated with anti-skid paint.

EXISTING BOX AND OTHER HOUSE CARS WITHOUT ROOF HATCHES

- B1. Box and Other House Cars built on or before October 1, 1966 or under construction prior thereto shall be deemed equipped as nearly as possible within the intent of these requirements when:
- (a) the running board, roof handholds over side and end ladders at "A" end of car and ladder treads above the fourth tread from bottom of side and end ladder at "A" end are removed;
 - (b) One (1) horizontal end platform handhold is applied on each end of car as specified in this section except the right hand end shall be not more than eight (8) inches from side of car, or where car end contour makes impractical the use of a single continuous end handhold, there is applied the equivalent consisting of two (2) handholds, the centre handhold to be a minimum of thirty (30) inches in clear length and the handhold to the right to be a minimum of nineteen (19) inches in clear length and to extend to within eight (8) inches of the right side of the car, such handholds to be not more than twelve (12) inches apart; and
 - (c) with hand brake operated near roof of car: a brake step shall be provided as specified in Section 5 and lettering one and one-half ($1\frac{1}{2}$) inches high shall be

painted on a yellow background on side sill near "B" end of car with a three-fourths ($\frac{3}{4}$) inch black border containing the words "KEEP OFF ROOF - NO RUNNING BOARD", or with hand brake operated from approximate level of top of end sill: roof handholds and side and end ladder treads above the fourth tread from the bottom of ladders at "B" end of car shall be removed and a brake step as specified by Section 5 shall be used with top of tread surface being level with or not more than four (4) inches below adjacent end handhold. Requirement (b) of this subsection shall not apply to cars equipped with end platforms and end platform handholds.

BOX AND OTHER HOUSE CARS WITH ROOF HATCHES

Same as specified for Box and Other House Cars without Roof Hatches except:

RUNNING BOARDS

- C1. Same as specified in sections 7 - 10 except: the end of longitudinal running board shall be not less than six (6) inches from a vertical plane parallel with end of car and passing through the inside face of knuckle when closed with coupler horn against buffer block or end sill.

LADDERS

- | | | |
|-----------------------|-----|---|
| NUMBER | C2. | Two (2). |
| DIMENSIONS | C3. | Minimum clear length of tread sixteen (16) inches; maximum spacing between treads nineteen (19) inches. |
| LOCATION | C4. | One (1) on each end of car not more than eight (8) inches from left hand side. |
| MANNER OF APPLICATION | C5. | Same as specified in Section 18. |

ROOF HANDHOLDS

- | | | |
|-----------------------|-----|------------------------------------|
| NUMBER | C6. | Two (2), one (1) over each ladder. |
| DIMENSIONS | C7. | Same as specified in Section 21. |
| LOCATION | C8. | Same as specified in Section 22. |
| MANNER OF APPLICATION | C9. | Same as specified in Section 23. |

END HANDHOLDS

(Treads of end ladders are end handholds).

NUMBER	C10.	Sixteen (16).
DIMENSIONS	C11.	(1) Minimum diameter, five-eighths (5/8) of an inch, wrought iron, steel, or other material of equivalent strength. (2) minimum clear length, sixteen (16) inches, preferably twenty-four (24) inches. (3) minimum clearance, two (2), preferably two and one-half (2½) inches.
LOCATION	C12.	Horizontal: Four (4) near each side and on each end of car spaced not more than nineteen (19) inches apart and with the bottom handhold located not more than twenty-one (21) inches from top tread of sill step, and top handhold shall coincide in height with end platform handholds, a variation of two (2) inches being allowed. Clearance of outer ends of handholds shall be not more than eight (8) inches from side of car.
MANNER OF APPLICATION	C13.	End-handholds shall be securely fastened with not less than one-half (½) inch bolts with nuts outside (when possible) and riveted over, or with not less than one-half (½) inch rivets. Each bottom hand-hold shall have foot guard or upward projection not less than two (2) inches in height near inside end.

EXISTING BOX AND OTHER HOUSE CARS WITH ROOF HATCHES

- D1. Box and Other House Cars with roof hatches built on or before October 1, 1966 or under construction prior thereto shall be deemed equipped as nearly as possible within the intent of these requirements when equipped with the same complement of safety appliances, depending upon type, as is specified in Sections C1 to C13 inclusive, for Box and Other House Cars with Roof Hatches except:
- (1) the side ladder treads above the fourth tread from bottom of side ladder near "A" end of car and roof handhold over the side ladder near "A" end shall be removed.
 - (2) One (1) end platform handhold shall be provided on each end of car as specified in Section B1(b) and when

hand brake is operated near roof of car a brake step shall be provided as specified by Section B1(c) or when hand brake is operated from approximate level of top of end sill the roof handhold over side ladder near "B" end and treads above the fourth tread from bottom of side ladder near "B" end shall be removed and a brake step as specified in Section B1(c) shall be used with top of tread surface level with or not more than four (4) inches below adjacent end handhold.

(SGD) ROD KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 122017

WEDNESDAY, THE 14TH DAY OF
SEPTEMBER, A.D. 1966.

ROD. KERR, Q.C.,

Chief Commissioner.

H.H. GRIFFIN,

Asst. Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

IN THE MATTER OF the application of The Bell Telephone Company of Canada under the provisions of "An Act respecting The Bell Telephone Company of Canada", 6 Elizabeth II (1957), chapter 39, Section 2 (Canada), for an Order approving of an issue, sale or other disposition of not more than 1,190,000 shares of its capital stock in exchange for not more than 620,000 fully paid non-assessable common shares of The New Brunswick Telephone Company, Limited, and 1,485,000 fully paid non-assessable common shares of Maritime Telegraph & Telephone Company, Limited:

File No. 36730.2

UPON hearing the application at a sittings of the Board held in Ottawa on the 12th day of September 1966, in the presence of Counsel for the Applicant, J.A.Y. MacDonald, Q.C. appearing for the Deputy Attorney General of the Province of Nova Scotia, and Mr. A.J. Unsworth, Secretary and General Counsel, "Maritime Telegraph and Telephone Company, Limited", and upon hearing what was alleged, and upon reading what has been filed in support of the application, public notice of such application having been published in The Canada Gazette in conformity with the requirements of the Board's Rules of Practice, and it appearing that the proposed issue is necessary for the purpose of enabling the Applicant to acquire the above-mentioned shares of The New Brunswick Telephone Company, Limited, and the "Maritime Telegraph and Telephone Company, Limited" in the interests of the undertaking of the Applicant, and the Board being satisfied that the application should be granted—

56 B.T.C.

IT IS ORDERED that approval be, and it is hereby given, to the issue of not more than 1,190,000 shares of the capital stock of the Applicant in exchange for not more than 620,000 fully paid non-assessable common shares of the par value of \$10.00 each of The New Brunswick Telephone Company, Limited, and for not more than 1,485,000 fully paid non-assessable common shares of the par value of \$10.00 each of the "Maritime Telegraph and Telephone Company Limited". The limitation as to the number of 620,000 shares of New Brunswick Telephone Company Limited and 1,485,000 shares of the "Maritime Telegraph Company, Limited" is subject to the condition that any fraction of such shares will be increased to the next higher whole number as provided in clause E of the application.

The issue of shares of the Applicant authorized herein is not to be registered under the United States "Securities Act of 1933" and amendments thereto, and the Applicant shall not accept any subscription from any shareholder of the said Company or any person or his agent who appears to be, or who the Applicant has reason to believe, is a resident of the United States of America or any territory or possession thereof.

Such shares of the Applicant may be issued only as fully paid non-assessable shares in exchange for such fully paid non-assessable shares of The New Brunswick Telephone Company, Limited and the "Maritime Telegraph and Telephone Company, Limited" as may be transferred to the Applicant on the basis of five shares of the Applicant for eleven common shares of the capital stock of New Brunswick Telephone Company, Limited, and on the basis of three shares of the Applicant for five common shares of the "Maritime Telegraph and Telephone Company, Limited".

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122011

**TUESDAY, THE 13TH DAY OF
SEPTEMBER, A.D. 1966.**

ROD. KERR, Q.C.,

Chief Commissioner.

H.H. GRIFFIN,

Asst. Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

W.R. IRWIN,

Commissioner.

A.S. KIRK,

Commissioner.

*IN THE MATTER OF increased
commutation fares filed with the
Board by the Canadian Pacific
Railway Company and the Dominion
Atlantic Railway Company to
become effective on September 17,
1966:*

File No. 29984.18.

WHEREAS the Board has received for filing Canadian Pacific Railway Company and The Dominion Atlantic Railway Company tariffs of increased commutation fares to become effective on September 17, 1966, without indication of any advice of such increase having been given to interested parties;

AND WHEREAS the Board considers adequate notice should be afforded to permit any relevant submissions to be made to the Board;

IT IS HEREBY ORDERED AS FOLLOWS:

1. The effective date of the following tariffs is hereby postponed until October 17, 1966:

- (a) Canadian Pacific Railway Company Tariff C.T.C. No. 96;
- (b) Canadian Pacific Railway Company Tariff C.T.C. No. 97; and
- (c) The Dominion Atlantic Railway Company Tariff C.T.C. No. 1458.

2. That the Canadian Pacific Railway Company and The Dominion Atlantic Railway Company furnish to the Board their full justification for the proposed increased fares as aforesaid.

(SGD) ROD. KERR, Q.C.,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 122138

TUESDAY, THE 27TH DAY OF
SEPTEMBER, A.D. 1966.

ROD. KERR, Q.C.,
Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF freight
tariffs filed to become effective
October 1, 1966, adjusting freight
charges in respect of former
absorption of top wharfage charges
at ports:*

File No. 30741.7

UPON consideration of submissions by Canadian National Millers Association; The Maritimes Transportation Commission and of the answer thereto by Canadian National Railways and Canadian Pacific Railway Company concerning objections to the proposed adjustment aforesaid:

AND UPON it appearing that insufficient time is available to the Board to give full consideration to the matter at issue, and that the issues appear to require a public hearing.

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Tariff schedules listed in paragraph 2 hereof are suspended pending hearing and determination by the Board:

2. Canadian National Railways

Item 571 on 7th Revised Page 159A to C.T.C(F) No. E. 1694
Item 571 on 7th Revised Page 159B to C.T.C(F) No. E. 1694
Item 571 on 8th Revised Page 159C to C.T.C(F) No. E. 1694
Item 571 on 1st Revised Page 159D to C.T.C(F) No. E. 1694
Item 571 on 1st Revised Page 159E to C.T.C(F) No. E. 1694
Item 571 on 1st Revised Page 159F to C.T.C(F) No. E. 1694
Item 571 on 1st Revised Page 159G to C.T.C(F) No. E. 1694
Item 572 on 2nd Revised Page 159H to C.T.C(F) No. E. 1694

Rule 14½ of Supplement 125 to C.T.C(F) No. E. 3269
Rule 10½ on 29th Revised Page 12 to C.T.C(F) No. E. 3867
Rule 10½ on 31st Revised Page 12 to C.T.C(F) No. E. 3867
Rule 31 of Supplement 59 to C.T.C(F) No. E. 3888
Rule 15½ on 11th Revised Page 19 to C.T.C(F) No. E. 4011
Rule 8½ on 10th Revised Page 31 to C.T.C(F) No. E. 4030
Rule 7 of C.T.C(F) W. 2519

Grand Trunk Railway System

Rule 8½ on 10th Revised Page 31 to C.T.C(F) No. E. 326

Canadian Pacific Railway Company

Item 549 on 5th Revised Page 100E to C.T.C(F) No. E. 4126
 Item 549 on 3rd Revised Page 100F to C.T.C(F) No. E. 4126
 Item 549 on 3rd Revised Page 100G to C.T.C(F) No. E. 4126
 Item 549 on 5th Revised Page 100H to C.T.C(F) No. E. 4126
 Item 549 on 5th Revised Page 100I to C.T.C(F) No. E. 4126
 Item 549 on 4th Revised Page 100J to C.T.C(F) No. E. 4126
 Item 549 on 3rd Revised Page 100K to C.T.C(F) No. E. 4126
 Item 549¾ on 2nd Revised Page 100M to C.T.C(F) No. E. 4126
 Rule 5½ on 31st Revised Page 7 to C.T.C(F) No. E. 5039
 Rule 5-1/8 on 6th Revised Page 10A to C.T.C(F) No. E. 5040
 Rule 5½ on 4th Revised Page 17 to C.T.C(F) No. E. 5172
 Rule 3 of Supplement 12 to C.T.C(F) No. E. 5191
 Rule 3 of Supplement 22 to C.T.C(F) No. E. 5217
 Paragraph (f) of Rule 5 in Section 6 to Supplement 2 to C.T.C(F)
 No. E. 5325

Canadian Freight Association

Paragraph (3) of Item 8-B in Supplement 67 to C.T.C(F) No. 681
 Item 301-A of Supplement 46 to C.T.C(F) No. 1609
 Rule 265A of Supplement 38 to C.T.C(F) No. 1692
 Rule 125A of Supplement 2 to C.T.C(F) No. 1733

The Dominion Atlantic Railway Company

Item 70 on 3rd Revised Page 27 to C.T.C(F) No. 1198
 Item 70 on 3rd Revised Page 28 to C.T.C(F) No. 1198
 Item 70 on 5th Revised Page 29 to C.T.C(F) No. 1198
 Item 70½ on 3rd Revised Page 30 to C.T.C(F) No. 1198
 Rule 27-A of Supplement 57 to C.T.C(F) No. 1205
 Rule 17-B of Supplement 17 to C.T.C(F) No. 1223
 Rule 19-A of Supplement 5 to C.T.C(F) No. 1232

Quebec Central Railway Company

Item 247 on 8th Revised Page 79-A to C.T.C(F) No. 1105
 Paragraph 5 in Section 3A of Rule 5 in Supplement 41 to
 C.T.C(F) No. 1263
 Paragraph 5 in Section 3B of Rule 5 in Supplement 41 to
 C.T.C(F) No. 1263

Quebec Central Railway Company (cont'd)

Paragraph 5 in Section 3C of Rule 5 in Supplement 41 to
C.T.C(F) No. 1263

Paragraph (E) in Section 5 of Rule 5 in Supplement 22 to
C.T.C(F) No. 1268

Paragraph 4 in Section 2(A) of Rule 5 in Supplement 12 to
C.T.C(F) No. 1275

The Chesapeake and Ohio Railway Company

Item 211—A of Supplement 68 to C.T.C(F) No. 965

The New York Central Railroad Company

Item 165 and 170 of Supplement 4 to C.T.C(F) No. 634

Item 165 and 170 of Supplement 5 to C.T.C(F) No. 634.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122150

THURSDAY, THE 29TH DAY OF
SEPTEMBER, A.D. 1966.

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

*IN THE MATTER OF clause 9 of
General Order No. E-4 respecting
the erection of signboards at cross-
ings of a highway and a railway:*

File No. 30245.1

IT IS HEREBY ORDERED AS FOLLOWS:

Notwithstanding the provisions of clause 9 of General Order No. E-4, where there is insufficient lateral clearance for the erection of standard signboards as prescribed by said clause 9, Canadian National Railways may erect signboards as shown on Plan No. S14C-5.5, revised to September 15, 1966, and Canadian Pacific Railway Company may erect signboards as shown on Plan No. F-14-49-2, dated August 3, 1965, which Plans are hereby approved for the said purpose.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, JULY, 1966

	<i>Accidents</i>	<i>Killed</i>	<i>Injured</i>
Railway Accidents.....	339	15	342
Level Crossing Accidents.....	23	14	27
	<u>362</u>	<u>29</u>	<u>369</u>

	<i>Killed</i>	<i>Injured</i>
Passengers.....	1	128
Employees	2	206
Others	26	35
	<u>29</u>	<u>369</u>

Of the 23 accidents at Highway Crossings, 16 occurred where standard railway crossing signs are located, 7 where additional forms of protection are in use, 17 after Sunrise and 6 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(* Denotes Order printed in full)

- 121843 August 29 – Approving changes in the automatic protection at crossing of the C.N.R. and Boundary Street, Prescott, Ont., mileage 112.95 Kingston Subd.
- *121844 August 29 – Authorizing the Cumberland Rly. Co. to abandon the spur track from Summit Yard, serving No. 18 Colliery of the Dominion Coal Co., New Waterford, N.S., approximately $\frac{3}{4}$ of a mile in length. (See page 1150, 56 B.T.C.)
- 121845 August 29 – Approving changes in the automatic protection at crossing of the C.N.R. and Brockem Road west of Prescott, Ont., mileage 119.05 Kingston Subd.
- 121846 August 29 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and transfer facilities at Bridgetown, N.S., near mileage 44.87 Kentville Subd., C.P.R.
- 121847 August 29 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and transfer facilities at Hazlet, Sask., near mileage 19.11 Pennant Subd., C.P.R.
- 121848 August 29 – Approving the location of Imperial Oil Ltd. flammable liquid bulk storage and transfer facilities at Winkler, Man., near mileage 71.92 La Rivière Subd., C.P.R.
- 121849 August 29 – Authorizing the C.N.R. to remove the caretaker at Rowley, Alta., mileage 92.9 Stettler Subd.
- 121850 August 29 – Authorizing the C.N.R. to remove the caretaker at Greenfield, Ont.
- 121851 August 29 – Authorizing the C.N.R. to remove the caretaker and the station building, Birch Island, B.C., mileage 6.16 Clearwater Subd.
- 121852 August 29 – Authorizing the C.N.R. to remove the caretaker at Rosebud, Alta., mileage 76.4 Drumheller Subd.
- 121853 August 29 – Authorizing the C.N.R. to remove the caretaker at Michichi, Alta., mileage 29.9 Drumheller Subd.
- 121854 August 29 – Authorizing the C.P.R. to remove the caretaker at Armley, Sask., mileage 114.2 Tisdale Subd.
- 121855 August 29 – Authorizing the C.N.R. to remove the caretaker at Endiang, Alta., mileage 28.0 Endiang Subd.

- 121856 August 29 – Authorizing the C.N.R. to remove the caretaker at Munson, Alta., mileage 41.1 Drumheller Subd.
- 121857 August 30 – Authorizing the Saskatchewan Department of Highways and Transportation to reconstruct Highway No. 39 across the C.P.R. at mileage 0.12 Assiniboia Subd. NE¼-20-8-14-W2M.
- 121858 August 30 – Authorizing the Town of Francis, Sask. to construct the highway across the C.P.R. at mileage 47.26 Tyvan Subdivision.
- 121859 August 30 – Approving tariffs filed by the Bell Telephone Company of Canada.
- 121860 August 30 – Approving tariffs filed by the British Columbia Telephone Co.
- 121861 August 30 – Authorizing the Alberta Department of Highways to widen Highway No. 39 across the C.P.R. north of Breton, mileage 71.75 Hoadley Subd.
- 121862 August 30 – Approving the location of Shell Canada Limited proposed Class II flammable liquid bulk storage and transfer facilities at Simcoe, Ont. near mileage 73.39 Cayuga Subd., C.N.R.
- 121863 August 30 – Authorizing the installation of automatic protection at crossing of Essex County Road No. 8 and C. & O.R. Arner, Ont., mileage 26.00 No. 1 Subd.
- 121864 August 31 – Allocating the cost of maintenance of highways through the subways and the approaches thereto, and the drainage of the subways where Michigan Central Railroad Co. (N.Y.C.R.) intersects Hwy. No. 3B (Dougall Road), Twp. of Sandwich West, Ont. mileage N.F. 222.76 Mainline Subd.
- 121865 August 31 – Approving tariffs and supplements to tariffs filed by the D.A.R. under the provisions of the M.F.R.A.
- 121866 August 31 – Approving tariffs and supplements to tariffs filed by the D.A.R. under the provisions of the M.F.R.A.
- 121867 August 31 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Montee St. Francois, St. Vincent de Paul, P.Q., mileage 4.76 Trois Rivières Subd.
- 121868 August 31 – Authorizing the removal of the speed limitation at crossing of the C.P.R. and Regent Street, Sudbury, Ont. mileage 80.15 Cartier Subd.

- 121869 August 31 - Approving tariffs and supplements to tariffs filed by the D.A.R. under the provisions of the M.F.R.A.
- 121870 August 31 - Approving tariffs and supplements to tariffs filed by the D.A.R. under the provisions of the M.F.R.A.
- 121871 August 31 - Authorizing the United Counties of Stormont, Dundas and Glengarry to widen and improve County Road No. 21 across the C.N.R. Township of Kenyan, County of Glengarry, Ont. mileage 29.53 Alexandria Subd.
- 121872 August 31 - Authorizing the installation of automatic protection at crossing of C. & O. Rly. and the highway, mileage 83.5 No. 1 Subd., Ont.
- 121873 August 31 - Approving changes in the automatic protection at crossing of C.N.R. and Highway No. 33, L'Epiphanie, P.Q. mileage 114.35 Joliette Subd.
- 121874 August 31 - Allocating the cost of maintenance and operation of the protection at crossing of the C.P.R. and Broadway St., Douglas, Man., mileage 121.8 Carberry Subd.
- 121875 August 31 - Approving proposed changes to the crossing of 15th St., S.E. and the C.P.R., Calgary, Alta., mileage 0.66 Red Deer Subd.
- 121876 August 31 - Authorizing the installation of automatic protection at crossing of the C.N.R. and 26th St., Brandon, Man. mileage 1.78 Cromer Subd.
- 121877 August 31 - Approving the location of C.P.R. station proposed to be erected at Hull West, P.Q.
- 121878 August 31 - Authorizing the C.N.R. to reconstruct bridge over Snake River, Twp. of Elderslie, County of Bruce, Ont. mileage 40.8 Owen Sound Subd.
- 121879 August 31 - Authorizing the Quebec Department of Roads to improve Pike Road across the C.P.R., Municipality of the Twp. of Low, County of Gatineau, mileage 39.65 Maniwaki Subd.
- 121880 August 31 - Relieving the C.P.R. from erecting and maintaining fences between certain mileages on its Prescott Subd., Ont.
- 121881 August 31 - Approving the restricted clearances on the track serving Crane Canada Ltd., Canadian Potteries Division, in the City of Saint Johns, P.Q. which track commences at mileage 22.31 Rouses Point Subd. C.N.R. with headblock at mileage 20.0 Adirondack Subd. C.P.R.

- 121882 August 31 – Authorizing the improvement of automatic protection at crossing of C.N.R. and Chemin de la Riviere du Sud Town of Montmagny, P.Q. mileage 77.8 Montmagny Subd.
- 121883 August 31 – Authorizing the C.N.R. to make changes in the signals at East End Winnipeg Terminals, Man. mileage 251.75 to mileage 252.05 Redditt Subd.
- 121884 September 1 – Authorizing the construction of the municipal road across the C.P.R. R.M. of Round Hill No. 467, Sask. mileage 4.86 Whitkow Subd.
- 121885 September 1 – Relieving the C.P.R. from erecting and maintaining fences on the east side of its Lanigan Subd. between mileages 52.02 and 52.31, Sask.
- 121886 September 1 – Allocating the cost of maintenance of crossing of C.P.R. and the highway, Township of Dorion, Ont. mileage 84 Nipigon Subd.
- 121887 September 1 – Authorizing the installation of automatic protection at crossing of C.N.R. and County Road No. 9, Village of Richmond, County of Carleton, Ont. mileage 12.89 Smiths Falls Subd.
- 121888 September 1 – Authorizing the installation of automatic protection at crossing of the C.N.R. and Sideroad 5 and 6, Twp. of Whitchurch, Ont. mileage 27.30 Bala Subd.
- 121889 September 1 – Authorizing the Quebec Department of Roads to construct Jeffrey Road across the C.N.R., Mun. of the Parish of Ste. Anne de la Pocatiere, County of Kamouraska, mileage 44.42 Montmagny Subd.
- 121890 September 1 – Approving location of Imperial Oil Limited proposed flammable liquid bulk storage and transfer facilities at Crane Valley, Sask. near mileage 38.5 Amulet Subd. C.P.R.
- 121891 September 1 – Authorizing the C.P.R. to remove the station agent and close the station at Cache Bay, Ont. mileage 26.4 Cartier Subd.
- 121892 September 1 – Revoking authority of Order No. 100155 which authorized the closing of Delair Road across the C.P.R. in the vicinity of mileage 7.87 Mission Subd., B.C.
- 121893 September 1 – Authorizing the Township of Bertie, Ont. to improve approach grades of Winger Rd. across the C.N.R., mileage 7.40 Cayuga Subd.

- 121894 September 2 – Authorizing the removal of the speed limitation at crossing of the highway and C.P.R., Copelands Mill, Ont. mileage 77.30 MacTier Subd.
- 121895 September 2 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and transfer facilities at Berwick, N.S. near mileage 12.37 Kentville Subd., C.P.R.
- 121896 September 2 – Authorizing the C.P.R. to construct a track across 50th Ave. Town of Taber, Alta., commencing at mileage 75.73 Taber Subd. and to construct the said track across and over the 16-inch steel gas pipe line of Canadian Western Natural Gas Company Limited at chainage 2 + 69.5.
- 121897 September 2 – Authorizing the removal of the speed limitation at crossing of the highway and the C.P.R., Ont. mileage 33.79 M. & O. Subd.
- 121898 September 2 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Henderson Road, B.C. mileage 76.2 Yale Subd.
- 121899 September 2 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Davis Drive in Newmarket, Ont. mileage 34.12 Newmarket Subd.
- 121900 September 2 – Authorizing the removal of the speed limitation at crossing of the highway and the C.N.R., Lestock, Sask. mileage 57.05 Watrous Subd.
- 121901 September 2 – Authorizing the removal of the speed limitation at crossing of the C.N.R. and Strange St., Kitchener, Ont. mileage 63.5 Guelph Subd.
- 121902 September 2 – Approving location of Churchbridge Co-Operative Assoc. Ltd. proposed flammable liquid bulk storage and transfer facilities at Churchbridge, Sask.; near mileage 110.95 Bredenbury Subd. C.P.R.
- 121903 September 2 – Authorizing the C.P.R. to remove the station agent and close the station building at Whitefish Falls, Ont. mileage 19.7 Little Current Subd.
- 121904 September 2 – Authorizing the C.N.R. to erect special highway crossing signs in the City of Windsor, Ont. where Wyandotte St. crosses the siding serving the Ford Motor Car Co. commencing at mileage 105.15; and Sandwich St. crosses the siding serving the Ford Motor Car Co. which commences at mileage 105.29; and Walker Road crosses the siding serving Hiram Walker and Sons, commencing at mileage 105.65 respectively on the Chatham Subd.

- 121905 September 2 – Authorizing the C.N.R. and the C.P.R. to operate their engines and trains over the crossing of their railways at mileage 7.23 Ottawa Subd., C.N.R. and mileage 3.37 Prescott Subd., C.P.R., Ottawa, Ont.
- 121906 September 6 – Authorizing the Alberta Department of Highways to construct Highway No. N.D. 1 across the N.A.R. Co. mileage 104.49 Peace River Subd.
- 121907 September 6 – Amending Order No. 121506 which approved the location of facilities of Texaco Canada Ltd. for the handling and storage of flammable liquids near the tracks of C.N.R., Parry Sound, Ont. near mileage 1.46 Depot Harbour Subd.
- 121908 September 6 – Approving the location of the Royalite Oil Co. Ltd. flammable liquid bulk storage and transfer facilities, Baldur, Man., near mileage 109.05 Carman Subd., C.N.R.
- 121909 September 6 – Approving changes in the automatic protection at the crossing of the C.N.R. and Sophia St., Prescott, Ont., mileage 114.02 Kingston Subd.
- 121910 September 6 – Approving changes to the automatic protection at the crossing of the C.P.R. and Ste. Anne St., St. Clet, P.Q. mileage 29.73 Winchester Subd.
- 121911 September 6 – Authorizing the Quebec Department of Roads to construct an overhead bridge to carry an access Road across and over the C.N.R., Montreal, P.Q., mileage 5.83 Montreal Subd.
- 121912 September 6 – Authorizing the C.N.R. to operate on the reconstructed subway at mileage 30.2 Dundas Subd., Paris, Ont.
- 121913 September 6 – Approving changes to the automatic protection at the crossing of the C.N.R. and Blue Church Road, Twp. of Augusta, Ont., mileage 116.57, Kingston Subd.
- 121914 September 6 – Authorizing the C.N.R. to operate over the temporary track diversion, City of Sainte-Foy, P.Q.
- 121915 September 6 – Relieving the C.P.R. from erecting and maintaining right of way fences between certain mileages, on its Bulyea Subd., Sask.
- 121916 September 6 – Authorizing the C.N.R. to operate over the siding, serving the Simpson Timber Co. Ltd., which commences at mileage 100.56 Erwood Subd. and crosses Hwy. No. 3 at mileage 0.10 of siding and the highway at mileage 3.08, Sask.

- 121917 September 6 – Authorizing the N.A.R. Co. to remove the station agent at Watino, Alta. mileage 298.2 Smoky Subd.
- 121918 September 7 – Relieving the C.P.R. from erecting and maintaining right of way fences between certain mileages on the right of way of its Carman Subd., Man.
- 121919 September 7 – Revoking authority of Order No. 120753 which authorized the reconstruction of Hwy. No. 310 across the C.P.R. Town of Balcarres, Sask. mileage 24.7 Bulyea Subd.
- 121920 September 7 – Authorizing the C.N.R. to construct a rail car barge ramp, headframe towers and berthing dolphins in the Burrard Inlet, fronting on Parcel "D", New Westminster District, Vancouver, B.C.
- 121921 September 7 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association, under the provisions of the Maritime Freight Rates Act.
- 121922 September 7 – Approving tariffs and supplements to tariffs filed by the C.N.R. under the provisions of the M.F.R.A.
- 121923 September 7 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under the provisions of the M.F.R.A.
- 121924 September 7 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under the provisions of the M.F.R.A.
- 121925 September 7 – Authorizing the removal of the speed limitation at the crossing of N.Y.C.R. and Walker Road, City of Windsor, Ont. mileage N.F. 219.26.
- 121926 September 7 – Approving changes to the automatic protection at the crossing of the C.N.R. and County Road No. 15, in Maitland, Ont. mileage 120.48 Kingston Subd.
- 121927 September 7 – Approving the location of Strathclair Consumers Co-Operative Ltd. proposed Ammonium Nitrate storage facility at Strathclair, Man. near mileage 27.70 Bredenbury Subd. C.P.R.
- 121928 September 7 – Amending Appendix "A" of Order No. 120414 re marking of signboards at certain highway crossings of C.N.R. with reflective material.
- *121929 September 7 – Authorizing the City of St. Jerome, P.Q. to construct Castonguay Ave. across C.N.R., mileage 30.95 Montfort Subd. (See page 1190, 56 B.T.C.)

- 121930 September 7 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 121931 September 7 – Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage facilities at Arnaud, Man. near mileage 45.8 Emerson Subd. C.P.R.
- 121932 September 7 – Approving the location of Louise Consumers Co-operative Ltd. proposed Ammonium Nitrate storage facility at Pilot Mound, Man. near mileage 12.4 Napinka Subd., C.P.R.
- 121933 September 7 – Approving the location of Clinton Leslie Beckner proposed flammable liquid bulk storage and transfer facilities at Milo, Alta. near mileage 20.7 Lomond Subd., C.P.R.
- 121934 September 7 – Granting Metro. Toronto leave to prosecute the C.P.R. for an alleged violation of G.O. No. 0-26.
- 121935 September 7 – Authorizing the Village of Springside, Sask. to widen the municipal road crossing the C.P.R. at mileage 41.03 Wynyard Subd.
- 121936 September 7 – Approving the construction of 145th Street at grade across Lead No. 6 which commences at mileage 0.76 of the 144th Street Industrial Lead, the headblock of which is located at mileage 5.41 "B" Line, Edmonton Terminal Subd., Edmonton, Alta. C.N.R.
- 121937 September 7 – Authorizing the Rural Mun. of St. Peter No. 369, Sask. to construct the municipal road across the C.N.R. mileage 130.11 Margo Subd.
- 121938 September 7 – Authorizing the C.P.R. to close the crossing of the highway and its Railway at mileage 3.93 Kaslo Subd. B.C.
- 121939 September 7 – Relieving the C.P.R. from erecting and maintaining fences between certain mileages of its Notukeu Subd., Sask.
- 121940 September 7 – Authorizing the Government of the Yukon Territory to install railway and highway signals at the bridge of the White Pass and Yukon Route, Carcross, Yukon Territory.
- 121941 September 7 – Authorizing the C.N.R. to construct a passing track across the highway, Village of Rockyford, Alta. mileage 86.88 Drumheller Subd.

- 121942 September 7 – Authorizing The Township of Walpole to improve the crossing of Quarrie Sideroad (Sandusk Road) and N.Y.C. in Ont. at mileage NF 56.47 Main Line Subd.
- 121943 September 8 – Authorizing the Quebec Department of Roads to relocate Dorchester St. across the C.P.R., City of Quebec, mileage 158.97 Quebec Subd.
- 121944 September 8 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. mileage 116.39 Coronado Subd., Alta.
- 121945 September 8 – Approving the location of the Deloraine Consumers Co-Operative Ltd. proposed Ammonium Nitrate storage facility at Deloraine, Man. near mileage 89.73 Napinka Subd. C.P.R.
- 121946 September 8 – Authorizing the C.P.R. to remove the station agent at Dorion, Ont., mileage 85.2 Nipigon Subd.
- 121947 September 8 – Approving changes to the automatic protection at crossing of C.N.R. and a service road east of Oshawa, Ont., mileage 296.22 Kingston Subd.
- 121948 September 8 – Approving changes to the automatic protection at crossing of C.N.R. and Vernier Road in Coteau, P.Q. mileage 37.54 Kingston Subd.
- 121949 September 9 – Approving changes to the automatic protection at the crossing of the C.N.R. and Rosebank Road, Pickering, Ont., mileage 315.95 Kingston Subd.
- 121950 September 9 – Approving Traffic Agreement and Supplement No. 1 between The Bell Telephone Company of Canada and La Compagnie de Telephone de St-Camille.
- 121951 September 9 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone Lambton Inc.
- 121952 September 9 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone Guevremont Inc.
- 121953 September 9 – Approving Supplement No. 9 to Traffic Agreement between the Bell Telephone Company of Canada and The Corp. of the Twp. of Hay.
- 121954 September 9 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Lavant Dalhousie Telephone Co. Ltd.

- 121955 September 9 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Lanark and Ramsay Telephone Co. Ltd.
- 121956 September 9 – Approving Supplement No. 8 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Township of North Norwich.
- 121957 September 9 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Le Telephone de St-Liboire de Bagot Inc.
- 121958 September 9 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de St-Samuel-de-Gayhurst.
- 121959 September 9 – Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and Taylor Telephone Co. Ltd.
- 121960 September 9 – Approving changes to the automatic protection at the crossing of the C.P.R. and 50th Avenue Southeast, in the City of Calgary, Alta. mile 172.10 Brooks Subd.
- 121961 September 9 – Authorizing the C.N.R. to remove the station agent at Carling, Nfld., mileage 408.0 Port aux Basques Subd.
- 121962 September 9 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and Nepean Township Road between Lots 10 and 11, Conc. 5, Ont. mileage 9.73 Smiths Falls Subd.
- 121963 September 9 – Amending Order No. 115617 which authorized the widening and relocation of Highway No. 634 where it crosses the C.P.R. between Lot 11, Con. 4, Twp. of Rayside and Lot 1, Con. 3, Twp. of Balfour, Dist. of Sudbury, Ont. mileage 90.57 Cartier Subd. and authorizing the installation of automatic protection.
- 121964 September 9 – Authorizing the C.N.R. to install protection at the crossing of their railway and Ottawa Street, in the Village of Richmond, Ont., mileage 12.54 Smiths Falls Subd.
- 121965 September 9 – Authorizing the installation of automatic protection at the crossing of the C.N.R. and Main Street, in the Town of Redwater, Alta., mileage 29.51 Coronado Subd.
- 121966 September 9 – Authorizing the relocation of existing reflectorized crossing signs from the crossing of the highway and the C.N.R. at mileage 108.91 Fort Frances Subd., Ont., to another crossing at mileage 114.92 Fort Frances Subd.

- 121967 September 9 — Authorizing the City of Sarnia, Ont. to reconstruct and improve existing overhead bridge carrying Vidal Street across the right of way and track of the C.N.R., at mileage 0.91 St. Clair Tunnel Subd.
- 121968 September 9 — Approving the location of Imperial Oil Ltd. proposed flammable liquid bulk storage and transfer facilities at Francis, Sask., near mileage 47.4 Tyvan Subd. C.P.R.
- 121969 September 9 — Extending the time within which the C.N.R. are required by Order No. 120361 to close the temporary connecting road between Pitt Street and La Verendrye Blvd. which crossing at grade their right of way and track in the City of Montreal, P.Q. at mileage 0.66 Cote St. Paul Spur, and remove the gates therefrom.
- 121970 September 9 — Amending Order No. 111970 which authorized the Nova Scotia Department of Highways to improve Green Street where it crosses the right of way and track of the D.A.R. in the Town of Newport, mileage 26.78 Halifax Subd.
- 121971 September 9 — Authorizing the City of Waterloo, to reconstruct Northfield Drive where it crosses the C.N.R. at mileage 4.73 Waterloo Subd. (Elmira Branch), Ont.
- 121972 September 9 — Amending Order No. 113456 which authorized the installation of protection at the crossing of the C.N.R. and McAra Street in the City of Regina, Sask. mileage 91.38 Glenavon Subd.
- 121973 September 9 — Authorizing the C.N.R. to install automatic protection at the crossing of their railway and the highway at mileage 0.13 Government Spur, commencing at mileage 19.52 Dunville Subd., Ontario.
- 121974 September 9 — Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Leonidas Avenue in the City of Rimouski, P.Q. at mileage 0.56 Rimouski Wharf Spur.
- 121975 September 9 — Amending Order No. 119837 which authorized the County of Smoky Lake No. 13, Alta., to widen County Road at crossing of the C.N.R. bet. SE¼ of Sec. 35 and the SW¼ of Sec. 36, Twp. 59 Rge. 16, West 4th Meridian, at mileage 74.60 Coronado Subd. and to improve the vision.
- 121976 September 9 — Authorizing the C.P.R. to install reflectorized signs at the crossing of its railway and the highway at mileage 0.06 of the spur commencing at mileage 12.24 Galt Subd. Ont.

- 121977 September 9 – Extending the time within which the C.N.R. are required to install flashing light signals and bell at the crossing of their railway and Strimbold Road No. 151 at Topley, B.C. mileage 67.29 Telkwa Subd.
- 121978 September 9 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Village of Brussels.
- 121979 September 9 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Huot Telephone Service Registered.
- 121980 September 9 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and the Hurontario Telephones Ltd.
- 121981 September 9 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Hurontario Telephone Ltd.
- 121982 September 9 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Cumberland Telephone System (Metcalf Telephones Ltd.)
- 121983 September 9 – Authorizing the R.M. of Spiritwood No. 496 Sask., to construct a municipal road across the right of way and track of the C.P.R. in the NE¼ of Sec. 15 Twp. 54, Rge. 12, W3M mileage 40.21 Meadow Lake Subd.
- 121984 September 9 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and County Road No. 8, in the Village of Stirling, Ont. mileage 18.04 Campbellford Subd.
- 121985 September 9 – Authorizing the Quebec Department of Roads to realign, widen and improve the approach grades at the crossing of Perrot Blvd. in the Town of Perrot, and the C.P.R. at mileage 16.62 Winchester Subd., and the C.N.R. at mileage 22.07 Kingston Subd., and authorizing both Railways to install automatic protection at their respective crossing.
- 121986 September 9 – Authorizing the C.P.R. to install protection at the crossing of its railway and St. Sacrement Blvd. mileage 156.92 Quebec Subd; and the C.N.R. to install protection at the crossing of their railway at mile 11.7 Bridge Subd. and St. Malo Spur (C.N.R.), in the City of Quebec, P.Q.

- 121987 September 9 – Extending the time within which the C.P.R. is required by Order No. 120435, to install automatic protection at the crossing of its railway and Provincial Road No. 352 at Sidney, Man., mileage 93.27 Carberry Subd.
- 121988 September 9 – Approving changes to the automatic protection at the crossing of C.N.R. and St. Catharine Road, West of Coteau, P.Q., mileage 39.83 Kingston Subd.
- 121989 September 9 – Approving changes to the automatic protection at the crossing of C.P.R. and Highway No. 136 at Alton, Ont., mileage 30.08 Orangeville Subd.
- 121990 September 9 – Authorizing the N.A.R. to install automatic protection at the crossing of its railway and 108th Avenue in Grande Prairie, Alta., mileage 48.78 Grande Prairie Subd.
- 121991 September 9 – Authorizing the Quebec Department of Roads to improve St. Georges Road West where it crosses at grade the tracks of the C.P.R. in the Parish of St-Telephore, County of Soulanges, mileage 38.95 Winchester Subd.
- 121992 September 12 – Authorizing the Federal Department of Transport to construct an overhead bridge to carry Ferry Terminal Access Road across and over the right of way and yard tracks of the C.N.R. at Port aux Basques, Nfld. at mile 0.2 Port aux Basques Yard Track, which will eliminate the existing crossing at mile 547.38 Port aux Basques Subd.
- 121993 September 12 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Metcalfe Rural Telephone Co. Ltd. (Metcalfe Telephones Ltd.)
- 121994 September 12 – Authorizing the Federal Department of Transport to reconstruct, improve and relocate the overhead bridge carrying Isle aux Morts Road across and over the tracks of the C.N.R. at Port aux Basques, Nfld. mileage 547.5 Port aux Basques Subd.
- 121995 September 13 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. at Varney, Ont. mileage 22.8 Durham Subd.
- 121996 September 13 – Authorizing the Algoma Central Railway to install automatic protection at the crossing of its railway and Peoples Road, in the City of Sault Ste. Marie, Ont. mileage 6.00 Soo Subd.

- 121997 September 13 – Approving the crossing as constructed by Department of Highways of the Province of Alberta, at grade across the track of the Great Slave Lake Railway between the SW¼ of Sec. 28 and the NW¼ of Sec. 21, Twp. 110, Rge. 19, West 5th Meridian, at mileage 187.94 High Level Subd.
- 121998 September 13 – Authorizing the Quebec Department of Roads to improve the crossing of Belle Riviere South Road and the track of the C.P.R. in the Municipality of Ste-Scholastique, County of Deux-Montagnes, mileage 32.48 Lachute Subd.
- 121999 September 13 – Authorizing the Saskatchewan Department of Highways and Transportation to widen Highway No. 39 at grade across the C.N.R. in the City of Weyburn, mileage 13.25 Weyburn Subd.
- 122000 September 13 – Authorizing the British Columbia Department of Highways to reconstruct 17th Avenue where it crosses at grade the right of way of the C.P.R. at mileage 99.7 Cascade Subd.
- 122001 September 13 – Approving the crossing as constructed by the Alberta Department of Highways, at grade across the track of the Great Slave Lake Railway between the SE¼ of Sec. 24, Twp. 109, Rge. 20, West 5th Meridian and the SW¼ of Sec. 19, Twp. 109, Rge. 19 West 5th Meridian, mile 180.0 High Level Subd.
- 122002 September 13 – Requiring the C.P.R. to install automatic protection at the crossing of its railway and Walkley Road, in the City of Ottawa, Ont., mileage 4.17 Prescott Subd.
- 122003 September 13 – Approving the crossing of a C.N.R. passing track and Rochefondu Sideroad, in the Township of Westmeath, Ont. mileage 71.84 Beachburg Subd. and authorizing the Railways to improve the vision and north approach.
- 122004 September 13 – Authorizing the City of Calgary, Alta. to construct a street at grade across the spur track of the C.P.R. serving Maloney Steel Crafts Ltd.
- 122005 September 13 – Recommending to the Governor in Council for sanction an agreement between the Calgary and Edmonton Railway Company and the C.P.R., amending the provisions of the lease between said companies.
- 122006 September 13 – Recommending to the Governor in Council for sanction an agreement between Atlantic and North-West Railway Co. and C.P.R. amending provisions of the lease between said companies.

- 122007 September 13 – Requiring the C.N.R. to install automatic protection at the crossing of their railway and Louis Joliette Range Rd West in the Municipality of Louis Joliette, Dorchester County, P.Q. mileage 198.04 Monk Subd.
- 122008 September 13 – Approving location of C.N.R. Diesel fuel oil bulk storage and transfer facilities at Melville, Sask. near mileage 0.6 Watrous Subd.
- 122009 September 13 – Extending the time within which the C.P.R. is to install automatic protection at the crossing of its railway and Elmwood Drive, in the Twp. of Thurlow, Ont., mileage 88.79 Belleville Subd.
- 122010 September 13 – Extending the time within which the C.N.R. are to install automatic protection at the crossing of their railway and St. Pauls Road at Rogersville, N.B. mileage 44.27 Newcastle Subd.
- 122011 September 13 – Postponing effective date of C.P.R. and D.A.R. increased commutation fares *(See page 1215, 56 B.T.C.)
- 122012 September 13 – Authorizing the C.P.R. to widen the bridge over Cedar River, in the District of Thunder Bay, Ont., mileage 33.9 Heron Bay Subd.
- 122013 September 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8 of the M.F.R.A.
- 122014 September 13 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8 of the M.F.R.A.
- 122015 September 13 – Authorizing the N.A.R. to operate its engines, cars and trains over Industrial Tracks and across certain streets (unopened) in the Town of Peace River, Alta.
- 122016 September 13 – Allocating the cost of maintenance and operation of the automatic protection at the crossing of the C.N.R. and Leduc Blvd. in the Town of Montreal East, P.Q. mileage 2.58 Marien Avenue Spur.
- 122017 September 14 – Approving the issue, sale or other disposition of shares of capital stock of The Bell Telephone Co. of Canada in exchange for fully paid non-assessable common shares of The New Brunswick Telephone Co. Ltd. and Maritime Telegraph & Telephone Co. Ltd. (See page 1213, 56 B.T.C.)

- 122018 September 13 – Allocating the cost of maintenance of approach grades at the crossing of the C.N.R. Marien Ave. Spur and Leduc Blvd., in the Town of Montreal East, P.Q. mileage 2.58.
- 122019 September 14 – Approving the changes to the automatic protection at the crossing of the C.N.R. and Boundary Road, City of Cornwall, Ont. mileage 64.71 Kingston Subd.
- 122020 September 23 – Approving location of C.N.R. proposed diesel fuel oil bulk storage and transfer facilities at Central Station, Montreal, P.Q. mileage 0.0 Mount Royal Subd.
- 122021 September 14 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 122022 September 14 – Approving the location of proposed flammable liquid bulk storage and transfer facilities of Imperial Oil Ltd. at Weymouth, N.S. near mileage 41.35 Yarmouth Subd., C.P.R.
- 122023 September 14 – Approving location of proposed Ammonium Nitrate storage facilities of Rhineland Consumers Co-Op. Ltd. at Altona, Man. near mileage 6.75 Gretna Subd., C.P.R.
- 122024 September 14 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at mileage 8.9 Camrose Subd., Alta.
- 122025 September 15 – Authorizing the C.P.R. to construct a siding across Province Highway No. 5 (First Avenue), in the Town of Humboldt, Sask. mileage 27.23 Prince Albert Subd. to serve Saskatchewan Pool Elevator Ltd.
- 122026 September 15 – Authorizing the Quebec Department of Roads to widen and improve the crossing of la Montee Manson and the C.P.R. in the Mun. of Como, County of Vaudreuil, mile 5.83 M. & O. Subd.
- 122027 September 15 – Authorizing the C.P.R. to operate on the bridge at mileage 66.0 Mountain Subd., B.C.
- 122028 September 15 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway four miles south of Tottenham, Ont., mileage 50.75 Beeton Subd.
- 122029 September 15 – Approving the changes to the automatic protection at the crossing of C.N.R. and County Road No. 7, west of Ernestown, Ont. mileage 190.13 Kingston Subd.

- 122030 September 15 – Amending Order No. 121436, which authorized the C.N.R. to construct a deviation of their Emerson Subd., across Prairie Grove Road, in the City of St. Vital, Man. mileage 7.70 Emerson Subd. and across the relocated Municipal Road in the R.M. of Ritchot, Man. at mileage 8.60 Emerson Subd. and authorizing the C.P.R. to construct a temporary deviation of its railway's Emerson Subd. across Municipal Road in R.M. of Ritchot, Man. at mileage 8.74 Emerson Subd.
- 122031 September 14 – Approving the changes to automatic protection at the crossing of C.N.R. and Simpson Ave., in the Town of Bowmanville, Ont. mileage 290.44 Kingston Subd.
- 122032 September 15 – Exempting the C.P.R. from erecting and maintaining right of way fences between certain mileages on the Vanguard Subd., Sask.
- 122033 September 15 – Authorizing the C.N.R. to operate their engines, cars and trains under the overhead bridge crossing their railway in the Town of Montreal, West, P.Q. mileage 0.34 Lachine Industrial Spur.
- 122034 September 15 – Exempting the C.P.R. from erecting and maintaining right of way fences between certain mileages on its Indian Head Subd., Sask.
- 122035 September 15 – Exempting the C.P.R. from erecting and maintaining right of way fences on both sides of its Outlook Subd. between mileage 109.80 and 108.96, Sask.
- 122036 September 15 – Amending Order No. 118925, which authorized the Quebec Autoroutes Authority to construct a retaining wall at the dual overhead bridge carrying Eastern Townships' Autoroute across and over the C.P.R. at Bolton West, County of Brome, mileage 101.9 Sherbrooke Subd.
- 122037 September 15 – Amending Order No. 119781 which authorized the C.N.R. to increase the speed of engines, cars and trains on their St. Clair River Industrial Spur from a point near mileage 3.2 of the Froomfield Spur, south of Sarnia, to the property of Canadian Industrial Ltd. in Sombra Twp., County of Lambton, Ont.
- 122038 September 15 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Alma Street, (first public crossing south of the station) at Hebertville, P.Q. mileage 85.84 Jonquiere Subd.

- 122039 September 15 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at mileage 111.43 Vegreville Subd., Alta.
- 122040 September 15 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway east of the station at Onoway, Alta., mileage 29.29 Sangudo Subd.
- 122041 September 15 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Main Street, in Bellis, Alta., mileage 79.94 Coronado Subd.
- 122042 September 15 – Approving tariffs filed by the British Columbia Telephone Company.
- 122043 September 15 – Approving the changes to the automatic protection at the crossing of C.N.R. and Highway No. 34, in Lancaster, Ont. mileage 53.82 Kingston Subd.
- 122044 September 15 – Rescinding Order No. 120211 which authorized the C.N.R. to install automatic protection at the crossing of their railway and Grandin Avenue, in the Town of Morinville, Alta., mileage 20.75 Athabasca Subd.
- 122045 September 16 – Authorizing the County of Vermilion River No. 24, Alta. to construct County Road across the C.N.R. between the SE¼ of Sec. 35 and the SW¼ of Sec. 36, Twp. 50, Rge. 6, West 4th Meridian, mileage 120.18 Blackfoot Subd.
- 122046 September 16 – Approving the changes to the automatic protection at the crossing of C.N.R. and Joyceville Road west of Findley, Ont. mileage 163.34 Kingston Subd.
- 122047 September 16 – Approving the changes to the automatic protection at the crossing of C.N.R. and Boundary Road between the Twp. of Kingston and Twp. of Ernestown, Ont. mileage 181.71 Kingston Subd.
- 122048 September 16 – Authorizing the Village of MacNutt, Sask. to reconstruct crossing of Municipal Road and the C.N.R. between the SW¼ of Sec. 22 and the NW¼ of Sec. 15, Twp. 24, Rge. 30, West 1st Meridian mileage 32.43 Tonkin Subd.
- 122049 September 19 – Authorizing the New York Central Railroad Co. to bear the cost of maintenance and operation of the protection at the crossing of their railway and Elgin County Road No. 52, County of Elgin, Ont. mileage 100.67 Main Line Subd.

- 122050 September 19 – Amending Order No. 101843 which authorized The Bell Telephone Company of Canada to remove or relocate its existing facilities to permit the reconstruction of the existing subway at mileage 110.07 Galt Subd. carrying Highway No. 21 across and under the C.P.R. at mileage 109.90 Galt Subd.
- 122051 September 19 – Authorizing C. & O.R. to construct a siding across 15th Con. Road, bet. Cons. 14 and 15, Twp. of Sombra, Ont. to service Canadian Industries Ltd.
- 122052 September 19 – Authorizing the City of Vancouver, B.C. to close the crossings of Campbell Ave. and the tracks of the C.P.R.; the Great Northern Railway Co. and the C.N.R. and to construct a pedestrian walkway at grade at mile 127.7 Cascade Subd., (C.P.R.)
- 122053 September 19 – Authorizing the Saskatchewan Department of Highways and Transportation to widen Highway No. 1 at the crossing of the C.N.R. in the City of Regina, Sask. mileage 111.65 Lewvan Subd.
- 122054 September 19 – Approving tariffs filed by the C.N.R. under Section 3 of the M.F.R.A.
- 122055 September 19 – Authorizing the N.Y.C. to remove the station agent at Valleyfield, P.Q.
- 122056 September 19 – Authorizing the R.M. of Pleasantdale No. 398, Sask. to construct a municipal road across the C.P.R. in the NW¼ of Sec. 2, Twp. 41, Rge. 18, West 2nd Meridian, mileage 55.72 Melfort Subd.
- 122057 September 19 – Approving the changes to the automatic protection at the crossing of C.P.R. and the road to Carleton Co-Operative Ltd. in Florenceville, N.B. mileage 76.20 Shogomoc Subd.
- 122058 September 19 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the first highway crossing north of the station, at Larouche, P.Q. mileage 92.56 Jonquiere Subd.
- 122059 September 19 – Authorizing the removal of the speed limitation at the crossing of the Algoma Central Railway and Conmee Avenue in Sault Ste. Marie, Ont. mileage 2.43 Soo Subd.
- 122060 September 19 – Revoking authority of Orders No. 87273 and No. 77124 which approved the location of facilities of Imperial Oil Ltd. for handling and storage of flammable liquids near the C.N.R. at Rumsey, Alta.

- 122061 September 19 – Authorizing the C.P.R. to remove the caretaker and the station building at Dalhousie Mills, P.Q. mileage 41.6 Winchester Subd.
- 122062 September 20 – Authorizing changes in rate grouping of certain telephone exchanges of the Canadian National Telecommunications.
- 122063 September 20 – Revoking authority of Order No. 73197 which approved the location of facilities for handling and storage of flammable liquids of British Yukon Railway Co. at Carcross, Yukon.
- 122064 September 20 – Authorizing the C.P.R. to construct the main track of its Didsbury Westerly Branch across certain highways and certain unopened road allowances in County of Mountain View No. 17, Alta.
- 122065 September 20 – Authorizing The Bell Telephone Company of Canada to construct and maintain its lines of telephone under and along the right of way of the C.P.R. in the Parish of St. Michel de Vaudreuil, County of Vaudreuil, P.Q.
- 122066 September 21 – Authorizing the C.N.R. to relocate the protection at the crossing of their railway and the highway at mileage 0.21 Government Spur which commences at mileage 19.52 Dunnville Subd., Ont., from the crossing at mileage 34.25 Guelph Subd.
- 122067 September 21 – Revoking authority of Order No. 120311 which authorized the C.N.R. to install automatic protection at the crossing of their railway and Township Road, City of Guelph, Ont. mileage 46.22 Guelph Subd.
- 122068 September 21 – Authorizing the C.N.R. to install protection at the crossing of their railway and the highway at mileage 11.09 Deschailons Spur commencing at mileage 46.20 Drummondville Subd., P.Q.
- 122069 September 21 – Authorizing the C.N.R. to operate their engines, cars and trains under the overhead bridge in the Counties of Lennox and Addington, Twp. of Ernestown, Ont. mileage 187.95 Kingston Subd.
- 122070 September 21 – Revoking authority of Order No. 102385 which approved the location of facilities for storage and handling of flammable liquids of Kent Asphalt Paving Co. Ltd. at Charing Cross, Ont. mileage 196 Canada Division (N.Y.C.)

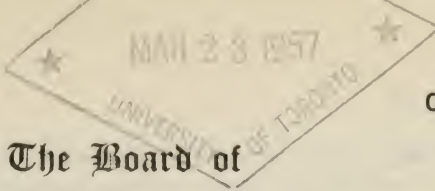
- 122071 September 21 – Authorizing the C.N.R. to relocate reflectorized crossing signs from crossing of Gagnon Blvd. Town of St. Felicien P.Q. mileage 28.83 Roberval Subd. to a crossing of their Railway and the highway at mileage 40.86 Taschereau Subd.
- 122072 September 21 – Authorizing the City of Trois-Rivieres P.Q. to construct St. Joseph Blvd. across the C.P.R. mileage 0.47 Trois-Rivieres Industrial Spur commencing at mileage 80.9 Trois-Rivieres Subd.
- 122073 September 21 – Authorizing the C.N.R. to construct and maintain an underpass for pedestrians at Eglinton Commuter Station, Ont. mileage 323.19 Kingston Subd.
- 122074 September 21 – Extending time within which N.Y.C. is required to install automatic protection at the crossing of its railway and Highway No. 3, near Caughnawaga, P.Q. mileage 53.7 Adirondack Junction and Malone Subd.
- 122075 September 21 – Approving changes to the automatic signals of the T.H. & B.R. between mileages 3.50 and 8.63 Welland Subd., Ont.
- 122076 September 21 – Amending Order No. 116883 which authorized the installation of modern protection at the crossing of the C.N.R. and Old Highway No. 49, at Plessisville, P.Q. mileage 40.54 Danville Subd.
- 122077 September 21 – Extending time within which the C.P.R. is required to install automatic protection at the crossing of its railway and the highway in Moores Mills, N.B. mileage 25.24 St. Stephen Subd.
- 122078 September 21 – Approving changes to automatic protection at the crossing of C.N.R. and St-Emmanuel Road, east of Coteau, P.Q. mileage 33.19 Kingston Subd.
- 122079 September 21 – Approving changes to automatic protection at the crossing of C.N.R. and McConnell Avenue, City of Cornwall, Ont. mileage 67.30 Kingston Subd.
- 122080 September 21 – Revoking authority of Order No. 78162 which approved the location of facilities for the handling and storage of flammable liquids of the Hambley Alfalfa and Feed Mills, near the C.N.R. at Swan Lake, Man.
- 122081 September 21 – Approving the signal changes of the C.P.R., between mileages 35.0 and 46.0 Trois-Rivieres Subd., P.Q.

- 122082 September 21 – Amending Order No. 116255, which authorized the C.P.R. to install automatic protection at the crossing of its railway and Roy Road, in the Township of Magog, P.Q. mileage 88.24 Sherbrooke Subd.
- 122083 September 21 – Authorizing the T.H. & B.R. to install protection at the crossing of its railway and Shellard Road, in the Township of Brantford, Ont. mileage 66.27 Waterford Subd.
- 122084 September 21 – Amending Order No. 111407 which authorized the C.N.R. to make changes to the automatic crossing protection at the crossing of their railway and Massawippi Road East in Lennoxville, P.Q. mileage 43.30 Sherbrooke Subd.
- 122085 September 21 – Authorizing the Ontario Department of Highways to construct a diversion of Highway No. 86, approx. 4,000 ft. long, south of the track of the C.P.R. near the hamlet of Ariss, Townships of Pilkington & Guelph, County of Wellington, eliminating C.P.R. crossings at mileages 37.70 and 38.00 Goderich Subd.
- 122086 September 21 – Extending the time within which the N.Y.C. is to install automatic protections at the crossings of its railway and Notre Dame Street and Station Street at mileages 50.64 and 50.90 Adirondack Junction and Malone Subd. respectively, Town of Chateaugay, P.Q.
- 122087 September 21 – Amending Order No. 116862 which authorized the C.N.R. to relocate and improve automatic protection at the crossing of their railway and Highway No. 5 in Warwick P.Q. mileage 63.14 Danville Subd.
- 122088 September 21 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and the highway at mileage 41.13 Kiask Falls Subd. P.Q.
- 122089 September 21 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and the highway at mileage 10.52 Granby Subd., P.Q.
- 122090 September 22 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and the highway at mileage 8.83 Granby Subd., P.Q.
- 122091 September 22 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Cadogan, Alta. mileage 84.8 Hardisty Subd.

- 122092 September 22 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Third Range Road, in the Parish of Ste-Clothilde, County of Chateauguay, P.Q. mileage 16.16 Valleyfield Subd.
- 122093 September 22 – Approving the changes to the automatic protection at the crossing of C.N.R. and 10th Street, in Cornwall, Ont. mileage 66.10 Kingston Subd.
- 122094 September 22 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 89, northeast of Harriston, Ont. mileage 40.65 Teeswater Subd.
- 122095 September 22 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and County Road No. 52, Township of Yarmouth, County of Elgin, Ont. mileage 30.13 St. Thomas Subd.
- 122096 September 22 – Approving changes to the automatic protection at the crossing of C.N.R. and Minet's Point Road, south of Allandale, Ont., mileage 62.03 Newmarket Subd.
- 122097 September 22 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Fournel Road in Ange Gardien, P.Q. mileage 10.46 Murray Bay Subd.
- 122098 September 22 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Casgrain Access Road in Ange Gardien, P.Q. mileage 9.53 Murray Bay Subd.
- 122099 September 22 – Revoking authority of Order No. 98751 which approved the location of North Star Oil Limited flammable liquid handling and storage facilities near the C.P.R. at Bentley, Alta.
- 122100 September 22 – Authorizing the C.N.R. to install protection at the crossing of their railway and County Road No. 8, Township of Williamsburg, County of Dundas, Ont. at mileage 89.8 Kingston Subd.
- 122101 September 22 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Township Road in Lot 10, bet. Conc. 5 & 6, Township of Nepean, Ont. at mileage 9.91 Smiths Falls Subd.
- 122102 September 22 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from the crossing of their railway

and Montee St-Polycarpe, Parish of St-Polycarpe, County of Soulanges, P.Q. at mileage 6.17 Alexandria Subd. to mileage 18.10 West Shefford Subd. P.Q.

122103 September 22 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from the crossing of their railway at mileages 10.25 and 11.17 Midland Subd. to crossings of the highway and their railway at mileage 0.35 of the spur which commences at mileage 6.17 Oakville Subd. and at mileage 25.70 Meaford Subd., Ont.


The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the Canadian National Railways for authority to discontinue operation of trains Nos. 49 and 50, (which numbers were later changed to Nos. 87 and 88), between Kapuskasing and Hearst, in the Province of Ontario, and substitute a bus service in lieu thereof.

File No. 35741

October 11, 1966

BEFORE:

H.H. GRIFFIN,
JOHN M. WOODARD,
W.R. IRWIN,

Assistant Chief Commissioner.
Commissioner.
Commissioner.

APPEARANCES:

H.J.G. PYE,
G.W. MAYBURY,
LEO BOULLEY,
M.A. PALANGIO,
ROSS PATERSON,

for Canadian National Railways.
Mayor of Kapuskasing.
Mayor of Hearst.
Mayor of Cochrane.
Councillor, Kapuskasing,
representing Kapuskasing and
District Labour Council.

G.W. KELLEN,
GEORGE MARTIN,
HARVEY WEST,

President, Kapuskasing and
District Chamber of Commerce.
President, Regional Tourist
Council of James Bay Frontier.
representing merchants and people
of Hearst.

Heard at Kapuskasing, Ontario, June 8 and 9, 1966

JUDGMENT

IRWIN, C:

On February 2, 1966, the Canadian National Railways, hereinunder referred to as the railway, applied to the Board for authority to discontinue operation of

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trains Nos. 49 and 50 between Kapuskasing and Hearst, in the Province of Ontario, and to substitute a bus service along this line. In April 1966, the numbers were changed to Nos. 87 and 88 and these numbers will be used throughout this Judgment.

As early as July 1965, Mayor J.L. Bouley of Hearst advised the Board that he had been told of the intention of the railway to discontinue rail passenger service between Kapuskasing and Hearst and he registered his opposition. This was followed in August 1965 by a resolution of the Kapuskasing Town Council expressing opposition to the rumoured proposal.

Following the actual filing of the application as noted above, opposition to the proposal, as amended in the actual application, accelerated. The Corporation of the Town of Hearst submitted a brief on March 4, and on February 7 the Kapuskasing Town Council unanimously passed a 10 point resolution in opposition to the application. J.A. Habel, M.P. representing Cochrane constituency and R. Brunelle, M.P.P. for Cochrane North, added their protests and requested a meeting in order that their arguments might be heard. The Board arranged a meeting in the Legion Hall at Hearst for April 13 and one at the Kapuskasing Community Centre for April 14. The Assistant Director of Operation and the Board's District Inspector attended these meetings and heard representations from Mr. Habel, Mr. Brunelle, and representatives of organizations and businesses in the area. The Board Officers further travelled on both the train and the bus presently in operation and observed all phases of both operations. On their return, they presented a complete report to the Board. The Board set the date for a hearing of the application in Kapuskasing on June 8, 1966.

At the opening of the hearing, Counsel for the railway announced an amendment to the original application, which had called only for the replacement of the service provided by trains 87 and 88 between Kapuskasing and Hearst with a bus service. The amendment was necessitated as a result of the sale of the Rochon Bus Lines' territorial franchise to the Ontario Northland Railway. Rochon Bus Lines, since 1962, had operated a bus service between Cochrane and Hearst under a contractual arrangement with the railway. A new tentative contractual arrangement had been concluded with the Ontario Northland Railway. The amendment to the original proposal concerned the handling of express and l.c.l. traffic between Kapuskasing and Hearst, by means of a highway service.

Evidence concerning the present and proposed service was given by Mr. R.A. Walker, Operations Manager of the Northern Ontario area of the railway. He introduced as Exhibit 1, a map which showed an all-weather, paved highway (No. 11) paralleling the railway between Kapuskasing and Hearst. Mr. Walker also filed Exhibit 2, both pages of which are reproduced below. Page 1 shows the present and proposed services westbound and page 2 the two services eastbound between Kapuskasing and Hearst. These services concern only passenger carryings.

CANADIAN NATIONAL RAILWAYS
NORTHERN ONTARIO AREA GREAT LAKES REGION
PROPOSED SUBSTITUTION OF BUS SERVICE
IN LIEU OF PRESENT PASSENGER TRAIN SERVICE
BETWEEN KAPUSKASING AND HEARST

STATEMENT NO. 1
PRESENT AND PROPOSED TRAIN AND BUS SCHEDULES
At June 6, 1966

Westbound

STATION	Present Service			Proposed Service			
	Train 87	Train 75	Bus	Train 87	Bus	Train 75	Bus
	Daily	Daily Ex. Sun.	Daily Ex. Sun.	Daily	Daily	Daily Ex. Sun.	Daily Ex. Sun.
	AM	PM	PM	AM	AM	PM	PM
Cochrane Ar.	8:10	4:10		8:10		4:10	
Cochrane Lv.	8:55		4:45	8:55			4:45
Frederick	f 9:05			f 9:05			
Hunta	f 9:13			f 9:13			
Detsul			f				f
Pullen			f				f
Smooth Rock	9:48		5:35	9:48			5:35
Strickland	f 10:03		5:50	f 10:03			5:50
Gregoire's Mill			5:55				5:55
Fauquier	10:15		6:00	10:15			6:00
Moonbeam	10:25		6:10	10:25			6:10
Kitigan			6:20				6:20
Kapuskasing Ar.	10:45		6:30	10:45			6:30
Kapuskasing Lv.	11:10		6:40		11:10		6:40
Valrita	f 11:20		6:50		11:20		6:50
Harty			7:00		11:30		7:00
Opasatika	11:42		7:15		11:45		7:15
Lowther	f 11:56		7:25		11:55		7:25
Parthia			7:35		12:05		7:35
Mattice	12:16		7:40		12:15		7:40
Fryatt					12:25		
Glenomo					12:35		
Hallebourg			7:55		12:40		7:55
Hearst Ar.	12:55		8:05		12:50		8:05
	PM	PM	PM	AM	PM	PM	PM

NOTE: All times shown are Eastern Daylight Time.

CANADIAN NATIONAL RAILWAYS
NORTHERN ONTARIO AREA GREAT LAKES REGION

PROPOSED SUBSTITUTION OF BUS SERVICE
IN LIEU OF PRESENT PASSENGER TRAIN SERVICE
BETWEEN KAPUSKASING AND HEARST

STATEMENT NO. 1

PRESENT AND PROPOSED TRAIN AND BUS SCHEDULES

At June 6, 1966

Eastbound

STATION	Present Service			Proposed Service			
	Bus	Train 74	Train 88	Bus	Train 74	Bus	Train 88
	Daily Ex. Sun.	Daily Ex. Sun.	Daily	Daily Ex. Sun.	Daily Ex. Sun.	Daily	Daily
	AM	PM	PM	AM	PM	PM	PM
Hearst Lv.	10:05		3:00	10:05		3:00	
Hallebourg	10:15		f 3:12	10:15		3:10	
Glenomo						3:15	
Fryatt						3:25	
Mattice	10:30		3:37	10:30		3:35	
Parthia	10:35			10:35		3:45	
Lowther	10:45		f 3:56	10:45		3:55	
Opasatika	10:55		4:12	10:55		4:05	
Harty	11:10			11:10		4:20	
Valrita	11:20		f 4:34	11:20		4:30	
Kapuskasing Ar.	11:30		4:40	11:30		4:40	
Kapuskasing Lv.	11:40		5:00	11:40			5:00
Kitigan	11:50			11:50			
Moonbeam	12:00		5:18	12:00			5:18
Fauquier	12:10		5:29	12:10			5:29
Gregoire's Mill	12:15			12:15			
Strickland	12:20		f 5:42	12:20			f 5:42
Smooth Rock	12:35		6:00	12:35			6:00
Pullen f				f			
Detsul f				f			
Hunta			f 6:25				f 6:25
Frederick			f 6:32				f 6:32
Cochrane Ar.	1:25		6:45	1:25			6:45
Cochrane Lv.		2:00	7:20		2:00		7:20
	PM	PM	PM	PM	PM	PM	PM

NOTE: All times shown are Eastern Daylight Time.

Mr. Walker pointed out that the present bus service remains the same and that the proposed bus service is almost identical with the present train time table with this difference: where the train stops at only Opasatika and Mattice plus two flag stops, the bus would stop at an additional five points. As could be seen from Exhibit 2, connections with trains 74 and 75 at Cochrane would remain unchanged.

Under the present service, train 87 has a consist including a single car (mail, baggage and express) which operates right to Hearst, a box baggage car which handles l.c.l. traffic as far as Kapuskasing, a line express car operating to Kapuskasing, a coach and a sleeping car operating through to Hearst. Freight service on the line is performed by trains 500 and 501, basically designed for carload handling on a daily except Sunday service. These freight trains would be unaffected by the proposed change, except that l.c.l. traffic would be handled by the truck on the highway.

Mr. Walker stated that under the proposed service, the l.c.l. and express for Kapuskasing and points west on train 87 would be handled in sealed containers on a flat car as far as Kapuskasing. At Kapuskasing two of the containers would be unloaded from the flat car and put on a highway vehicle for transportation to points west as far as Hearst. This movement would be performed by Star Transfer Limited on the basis of a contract with the railway. The time schedule for the highway service is shown in Exhibit 7 which is reproduced below:

EXHIBIT 7

CANADIAN NATIONAL RAILWAYS

NORTHERN ONTARIO AREA

GREAT LAKES REGION

PROPOSED SUBSTITUTION OF BUS SERVICE IN LIEU OF PRESENT PASSENGER TRAIN SERVICE BETWEEN KAPUSKASING AND HEARST

STATEMENT NO. 2

PROPOSED TRUCK – CONTAINER SCHEDULE

WESTBOUND

Station	Train 87 Daily	Truck Daily Ex. Sun.
Kapuskasing Ar.	10:45 a.m.	
Kapuskasing Lv.		11:15 a.m.
Opasatika		11:45 a.m.
Mattice		12:15 p.m.
Hearst Ar.		12:45 p.m.

EXHIBIT 7 (Cont'd)

STATEMENT NO. 2 (Cont'd)
PROPOSED TRUCK - CONTAINER SCHEDULE

EASTBOUND

Station		Truck Daily Ex. Sun.	Train 88 Daily
Hearst	Lv.	2:45 p.m.	
Mattice		3:15 p.m.	
Opasatika		3:45 p.m.	
Kapuskasing	Ar.	4:15 p.m.	
Kapuskasing	Lv.		5:00 p.m.

NOTE: All times shown are Eastern Daylight Time.

Mr. Walker pointed out that the containers were insulated, thermostatically controlled heated units, suitable for transportation of all perishable commodities normally handled in express service. He was satisfied that the two containers would be adequate in capacity to handle all the westbound express and l.c.l. traffic from train 87. In the event of a peak period, a spare container would be available at Kapuskasing. Under questioning, Mr. Walker stated that parcels for Hearst, Opasatika and Mattice would be delivered at the station as under the present service. The annual cost to the railway for the Star Transfer contracted service, would amount to \$15,650.

Evidence concerning passenger and mail carryings on trains 87 and 88 between Kapuskasing and Hearst was given by Mr. R. Young, Sales Manager of the Northern Ontario Area of the railway. Mr. Young stated that it was felt that the number of passengers carried on the trains did not justify continuance of the rail service, particularly in view of the economies possible from a bus operation.

In support of this contention, he had prepared Exhibits 8 and 9 which showed the number of passengers handled on trains 87 and 88 between Kapuskasing and Hearst in the years 1965 and 1966:

Year	Train 87	Train 88	Total Number of Passengers
1965	6028	4828	10,856
1966	5396	5285	10,681

He pointed out that the variation was slight, a decrease of only 175 passengers between 1965 and 1966.

In order to show more clearly the average trip carryings per month, Mr. Young prepared for filing Exhibit 10 which is reproduced below:

EXHIBIT 10

CANADIAN NATIONAL RAILWAYS
NORTHERN ONTARIO AREA GREAT LAKES REGION
PROPOSED SUBSTITUTION OF BUS SERVICE
IN LIEU OF PRESENT PASSENGER TRAIN SERVICE
BETWEEN KAPUSKASING AND HEARST

STATEMENT NO. 4A
AVERAGE NUMBER OF REVENUE PASSENGERS PER TRIP, BY MONTH
Year Ending 30 April 1966

MONTH	Train 87			Train 88		
	Lv. Kapuskasing	Ar. Hearst	Handled Between Kapuskasing & Hearst	Lv. Hearst	Ar. Kapuskasing	Handled Between Hearst & Kapuskasing
May	12	11	14	10	10	12
June	12	12	14	10	10	12
July	14	13	16	11	11	13
August	14	14	16	23	24	28
September	14	13	16	10	10	12
October	10	10	11	9	9	11
November	11	10	12	9	9	11
December	13	13	15	13	13	16
January	13	12	15	12	12	15
February	9	9	11	11	11	13
March	11	11	13	9	10	11
April	21	20	24	16	16	19
Annual Average	13	12	15	12	12	14

Mr. Young pointed out that the average remained below 20, except for the month of August for train 88, which he ascribed to increased summer travel, and the month of April for train 87, (April was the Easter month). Mr. Young agreed that sleeping car revenues would be lost as a result of the proposed bus operation and filed Exhibit 12, which is reproduced below, to show the low patronage of sleeping car accommodation. He testified that the annual revenue arising out of sleeping car operation between Kapuskasing and Hearst was \$2397.

EXHIBIT 12

CANADIAN NATIONAL RAILWAYS
NORTHERN ONTARIO AREA **GREAT LAKES REGION**
PROPOSED SUBSTITUTION OF BUS SERVICE
IN LIEU OF PRESENT PASSENGER TRAIN SERVICE
BETWEEN KAPUSKASING AND HEARST

STATEMENT NO. 7A
NUMBER OF SLEEPING CAR PASSENGERS, BY MONTH
Year Ending 30 April 1966

MONTH	Train 87			Train 88		
	Lv. Kapuskasing	Ar. Hearst	Handled Between Kapuskasing & Hearst	Lv. Hearst	Ar. Kapuskasing	Handled Between Hearst & Kapuskasing
May	58	55	58	55	57	57
June	53	50	53	33	34	34
July	62	59	62	31	32	32
August	65	62	65	32	39	39
September	38	36	38	49	50	50
October	32	30	32	18	19	19
November	45	43	45	35	36	36
December	45	43	45	29	30	30
January	64	61	64	59	61	61
February	34	32	34	45	46	46
March	77	73	77	21	22	22
April	46	44	46	70	72	72
TOTAL	619	588	619	477	498	498

With regard to the mail contract, concerning trains 87 and 88, Mr. Young stated that the Postal Department had advised the railway that they would employ an alternate means of handling the mail between Kapuskasing and Hearst. This would mean an annual loss of revenue to the railway of \$3660.

Evidence concerning the proposed passenger bus service was given by Mr. S.F. Clifford, Manager of Rail Service for the Ontario Northern Railway. Mr. Clifford outlined the proposed time schedule of operations shown above in Exhibit 2, pointing out that connections would be retained almost completely. He stated that the contract with the railway called for a guaranteed annual payment of \$21,900 to the Ontario Northland Railway. For the service, a 41 passenger bus would be used which Mr. Clifford felt would normally be adequate. If an extra bus should be required, additional payment would be made, but no payment would be made for a stand-by bus.

The bus to be used is a 1957 or 1958 model, which was completely rebuilt about three years ago. It is not air-conditioned nor washroom equipped, but is designed only for intercity travel. There have been no heating problems in past operations. The run would be handled by one driver plus a relief; bus and drivers would be located in Kapuskasing. All receipts would be turned over to the railway. The contract price would be the sole source of revenue to the Ontario Northland Railway for this service.

Financial Position of the Railway:

Mr. W.B. White, the railway cost witness, submitted as Exhibit 17 a Summary of Revenues and Expenses, based on the present and proposed traffic and service for the year ending April 30, 1966, and a constructive year. This Exhibit is reproduced hereunder.

CANADIAN NATIONAL RAILWAYS
NORTHERN ONTARIO AREA GREAT LAKES REGION

STATEMENT NO. 12A
SUMMARY OF REVENUES AND EXPENSES
Year ending 30 April 1966

	<u>Present Service</u>	<u>Proposed Service</u>
Revenues		
Passenger	\$17,132	\$17,132
Express	52,697	52,697
Sleeping Car	2,397	—
Mail	<u>3,660</u>	<u>—</u>
Total Revenues	\$75,886	\$69,829
Expenses		
Rail	\$92,284	—
Truck	—	\$18,100
Express-Freight Handling	42,263	42,263
Bus	<u>—</u>	<u>21,900</u>
Total Expenses	<u>\$134,547</u>	<u>\$82,263</u>
Surplus or (Deficit)	\$ (58,661)	\$ (12,434)
Net Financial Improvement		<u>\$ 46,227</u>

An analysis of variable rail expenses of the present service was submitted, and is shown as Exhibit 16 hereunder:

EXHIBIT 16

CANADIAN NATIONAL RAILWAYS
NORTHERN ONTARIO AREA **GREAT LAKES REGION**
STATEMENT NO. 11A
ANALYSIS OF VARIABLE EXPENSES
Year ending 30 April 1966

Expense Category	Amount
Equipment maintenance:	
Cars	\$ 6,358
Locomotives	15,712
Superintendence	1,459
Ownership and maintenance – Shop and Engine Houses	2,422
Transportation:	
Wages – train crews	28,893
– yard crews	–
– yard and station employees	–
Train Control	4,014
Superintendence	8,247
Fuel	4,151
Supplies	431
Equipment ownership and Rental:	
Depreciation – Cars	–
– Locomotives	–
Cost of Money – Cars	–
– Locomotives	–
Way and Structure:	
Maintenance	2,983
Superintendence	480
Depreciation	759
Cost of Money	1,228
Work Equipment – ownership and maintenance	106
Other Expenses:	
Pension	4,823
Unemployment Insurance	592
Sales	3,742
Freight Claims	–
Express – Freight Handling	–

EXHIBIT 16 (Cont'd)

STATEMENT NO. 11A (Cont'd)
 ANALYSIS OF VARIABLE EXPENSES
 Year ending 30 April 1966

Expense Category	Amount
Other Expenses: (Cont'd)	
Communications	1,756
O.C.S.	1,064
General	2,064
Joint Facility and Ferry Service	—
	<u>\$92,284</u>

I have had the Board's staff examine the revenue and expense calculations and, for purposes of this Judgment, the following reductions have been made in respect of the expenses of the present service:

Superintendence	\$10,186
Ownership and Maintenance — shops and enginehouses and work equipment	1,200
Train Control	3,000
Cost of Money	1,228
Maintenance of Way and Structures	1,500
Sales	3,742
Communications	1,756
Total	<u>\$22,612</u>

As a result of the above adjustments, the grand total expenses of \$134,547 are, for the purposes of my assessment of the merits of this application, reduced to \$111,935 and the annual loss from \$58,661 to \$36,049. Since I have made no disallowances in the expenses of the proposed service, the net financial improvement is reduced to \$23,615.

Opposition to the Application

At the hearing, Mayor M.A. Palangio, representing the Town and Board of Trade of Cochrane, and Chairman of the North Eastern Regional Development Association, pointed out the considerable lumber, pulp and plywood industries in the Cochrane, Kapuskasing, Hearst area, and indicated his determination that every effort would be made to secure adequate railway service for the area.

Mayor J.L. Boulley of Hearst filed a brief which had been submitted by the Corporation of the Town of Hearst as Exhibit 18 and, at the suggestion of the
 56 B.T.C.

Assistant Chief Commissioner, read in the first two and the last two paragraphs of the brief. In his Exhibit 18, he included the supporting submissions listed at the end of this paragraph. In his evidence, he pointed out that Hearst would have passenger train service to the south only over the Algoma Central Railway to Sault Ste. Marie, which operated four days a week in winter and daily in the summer months.

Supporting Material

- Exhibit "A" – Resolution of the Town of Hearst.
- Exhibit "B" – Letter and Resolution of the Town of Kapuskasing.
- Exhibit "C" – Letter from the Smooth Rock Falls Chamber of Commerce.
- Exhibit "D" – Letter from Notre-Dame Hospital.
- Exhibit "E" – Protest by the students of Hearst.
- Exhibit "F" – Letter from the St. Joseph's Convent.
- Exhibit "G" – Letter from Mattice Lumber Co. Ltd.
- Exhibit "I" – Letter from Transcontinental Timber Co. Ltd.
- Exhibit "J" – Editorial of the Daily Press (Premier Robarts).
- Exhibit "K" – Editorial of the Daily Press (comments on service).
- Exhibit "L" – Statement of passenger traffic.
- Exhibit "M" – Passenger revenues for three years.

Representing Kapuskasing, briefs were read by Mr. Cloutier, President of Kapuskasing Labour Council, representing eleven unions with a total membership of 5368; by Mr. R.A. Paterson, Councillor for Kapuskasing; Mr. L.J. Fenton, Kapuskasing and District Chamber of Commerce. In addition, Mayor G.W. Maybury of Kapuskasing read a telegram from Mr. J.A. Habel, M.P. for Cochrane, which telegram he filed as Exhibit 23. The Mayor then read into the proceedings the brief submitted by the Town of Kapuskasing. As many of the objections were common to several briefs, I will make no attempt to credit them to any particular presentation. They are objections common to the area affected and were summed up in Mayor Maybury's argument.

- (1) Northern Ontario has a great potential in lumber and mineral developments. Withdrawal of a service is a disadvantage to industries already established and will have a deterrent effect on prospective industrial development.
- (2) Withdrawal of this passenger service is a retrograde step indicative of a lack of faith on the part of the railway in the future of the area.
- (3) The large freight bill paid by present industries, such as the \$7 million to \$8 million annually from the Spruce Falls Mills, should warrant carrying the losses of the passenger service.

- (4) Bus passenger service is less dependable under northern winter conditions when the highway is, at times, a snow-packed road.
- (5) Sleeping accommodation is not available on buses, nor can they carry ambulance cases or the very ill. Mayor Maybury stated that the charges for the trip from Hearst to Kapuskasing were \$35.00 per trip for the Hearst station wagon, which was partially fitted as an ambulance and \$46.00 for the fully equipped Kapuskasing ambulance.
- (6) Many of the submissions indicated a feeling that improvements in the train service would stimulate greater patronage. They suggested:
 - (a) More promotion through advertising, particularly to encourage tourist trade.
 - (b) Lowering the sleeping car rates, (the rate from Hearst to Toronto is five dollars higher than from Kapuskasing to Toronto).
 - (c) Provide additional sleeping cars on the southerly run.
- (7) Alternative suggestions were made to retain train passenger service:
 - (a) Divert the Montreal passenger train from south Canadian National Railways' line to Cochrane and points west over the northern route.
 - (b) Have the Canadian National Railways sell the trackage between Kapuskasing and Hearst to the Ontario Northland Railway or, failing that, grant to the Ontario Northland Railway running rights over that portion of track.
- (8) A two year stay of the application was requested in order to await expected developments in the area which might increase patronage of the train passenger service.

Argument by Counsel for the Railway

Counsel for the railway, in argument, pointed out that the application showed an annual operational deficit of \$58,000 under the present operation, as compared with the deficit of \$12,000 under the proposed service, which would result in a net financial improvement of \$46,227.

He urged that the bus service was to be performed by good equipment of a capacity that would have been exceeded only five times out of 730 trips in the past twelve months. He noted that Mr. Clifford had stated that provision would be made to take care of any excess passengers. He further noted that in addition to the new bus service there was another first class bus service operating from North Bay through Cochrane to Kapuskasing and Hearst.

Counsel also contended that the l.c.l. traffic and express service via container provided full protection to all perishable traffic and ample capacity for any foreseeable volume of traffic offering. He contended that traffic west of

Kapuskasing would be handled with less delay than under the present service. It was also Counsel's contention that practically the only inconveniences that would be suffered by the public would be the change from bus to train or vice versa at Kapuskasing. The other inconvenience that he acknowledged was the handling of ambulance cases, which he contended averaged about one per month. He pointed out that the charge for the trip from Hearst to Kapuskasing was \$35.00 for a station wagon partially fitted as an ambulance and \$46.00 for the Kapuskasing fully-equipped ambulance. He did not believe that the railway should be expected to continue suffering its current loss in order to eliminate these minor inconveniences. Counsel flatly denied that the railway was losing faith in the development of the north country. He pointed out that the railway was merely substituting one form of service for another, in order to reduce a loss and that the industries of the area would continue to be well served in the field of freight and express as well as passenger. He could see no reason for the application being held in abeyance for two years. No evidence had been produced to show that anything was likely to happen in the next two years that would lead to an improved railway passenger patronage. It was his conviction that there was not now, or likely to be in the foreseeable future, sufficient patronage in the area to make the train passenger service profitable.

Findings and Determinations:

For the Towns of Cochrane, Kapuskasing and Hearst, the railway link to the south has been, and remains, all important. The railway played a significant part in the early development of the area and is almost the sole channel for marketing their products. It is natural that they should dread any curtailment of service, not only because they do not wish to lose the service, but, as was stated during the course of the hearing, because they fear that this may be the forerunner of future withdrawals. However, any withdrawal of service can, upon complaint, be brought before the regulatory authority and will be considered according to its individual merits.

The railway, in presenting its case, has insisted that it is merely replacing a service with another that is, with two minor exceptions, just as good; that the communities will be as well served as before and that the railway will greatly reduce its loss through the replacement. The review of the railway's statement of revenues and expenses carried out by the Board's staff, has estimated a minimum annual loss to the railway from its present operation of the passenger service of \$36,000. The estimated annual loss from the proposed operation is \$12,400, a net financial improvement of \$23,600 for the railway.

The effects of the change on the railway can be clearly defined; it remains to estimate the effects on the public. The only changes are the methods of handling the l.c.l. and express traffic and the handling of passenger traffic between Hearst and Kapuskasing by bus. From the evidence submitted at the

hearing, I am satisfied that the handling of l.c.l. and express traffic by containers will work no hardship on shippers, rather it may well be an improved service.

The change in passenger service over a distance of only 60 miles should cause serious added inconvenience only to ambulance cases which could not be handled by bus. There might be some difficulty during winter storms, but the evidence indicated that the highway is kept clear. Some provision would have to be made for handling ambulance cases, but I do not consider the change at Kapuskasing a serious inconvenience.

I find that the service to the community would not deteriorate to an extent that would justify refusing the application. I would, therefore, authorize the railway to discontinue the rail passenger service between Kapuskasing and Hearst, as provided by trains 87 and 88, and to substitute the passenger bus and the highway truck service for l.c.l. and express traffic, as described at this hearing. This discontinuance and substitution are authorized to take place upon 30 days' notice to be filed with the Board and posted at all affected stations on the line, the discontinuance to take place not earlier than November 15, 1966.

An Order will be issued accordingly.

(SGD) W.R. IRWIN

I Concur:

(SGD) H.H. GRIFFIN

I Concur:

(SGD) JOHN M. WOODARD

OTTAWA, October 11, 1966.

ORDER NO. 122271

TUESDAY, THE 11TH DAY OF
OCTOBER, A.D. 1966.

H.H. GRIFFIN,
Asst. Chief Commissioner.
J.M. WOODARD,
Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways hereinafter called the "Applicants", for authority to discontinue operation of Trains No. 49 and No. 50 (which numbers were later changed to No. 87 and No. 88), between Kapuskasing and Hearst, in the Province of Ontario, and to substitute a bus service in lieu thereof:

File No. 35741

UPON hearing the application before a sittings of the Board held at Kapuskasing, in the Province of Ontario, on June 8 and 9, 1966, in the presence of Counsel for the Canadian National Railways; Mr. G.W. Maybury, Mayor of Kapuskasing; Mr. Leo Bouley, Mayor of Hearst; Mr. M.A. Palangio, Mayor of Cochrane; Mr. Ross Paterson, Councillor, Kapuskasing, representing Kapuskasing and District Labour Council; Mr. G.W. Kellen, President, Kapuskasing and District Chamber of Commerce; Mr. George Martin, President, Regional Tourist Council of James Bay Frontier, and Mr. Harvey West representing merchants and people of Hearst —

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Applicants are authorized to discontinue operation of rail passenger service between Kapuskasing and Hearst, in the Province of Ontario, as provided by Trains No. 49 and No. 50 (which numbers were later changed to No. 87 and No. 88) and to substitute a passenger bus service, and a highway truck service for l.c.l. and express traffic.

2. The said discontinuance shall not take place earlier than November 15, 1966, and on not less than thirty days' prior notice filed with the Board and posted in the stations on the said line for the information of the public.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 122293

WEDNESDAY, THE 12TH DAY OF
OCTOBER, A.D. 1966

ROD. KERR, Q.C.,
Chief Commissioner.

J.E. DUMONTIER,
Deputy Chief Commissioner.

W.R. IRWIN,
Commissioner.

*IN THE MATTER OF General
Order No. E-7, Rules Governing the
Preparation of Accounts to Apply to
Joint Projects Undertaken under
Order of the Board:*

File No. 11026.74

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

General Order No. E-7, dated February 1, 1965, is amended by deleting the period at the end of sub-clause 4 of Clause 3 of the said Order, and by adding after the word "benefits" the words "and a surcharge of one and one-half per cent to cover the cost of the Canada and Quebec Pension Plans".

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.



ORDER NO. 122281

TUESDAY, THE 11TH DAY OF
OCTOBER, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

*IN THE MATTER OF Regulations
for the Transportation of Dangerous
Commodities by Rail prescribed by
General Order No. 0-29, dated
February 1, 1965:*

File No. D.C. 1.2.1

IT IS HEREBY ORDERED AS FOLLOWS:

1. Effective November 30th, 1966, the said regulations are amended by substituting or adding pages as indicated by the 5th revised check sheet pages No. 1 and No. 2 which have been placed on Board file No. DC 1.2.1

2. The requirements of Rules No. 5, No. 6, No. 8, and No. 11 of Tariff Circular 1A as authorized by General Order T-2, dated February 1, 1965, and in so far as they affect the said regulations are waived.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122286

WEDNESDAY, THE 12TH DAY OF
OCTOBER, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways, hereinafter called the "Applicants", under Section 168 of the Railway Act, for an Order authorizing the abandonment of 7,859 feet of their spur, serving the University of Manitoba, at mileage 4.09 Letellier Subdivision, in the Province of Manitoba:

File No. 16261.

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicants are authorized to abandon 7,859 feet of their spur, serving the University of Manitoba, at mileage 4.09 Letellier Subdivision, in the Province of Manitoba.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122287

WEDNESDAY, THE 12TH DAY OF
OCTOBER, A.D. 1966

ROD. KERR, Q.C.,
Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of The Bell Telephone Company of Canada, hereinafter called the "Applicant Company", dated the 23rd day of September, 1966, under the provisions of Section 2 of Chapter 39 of the Statutes of Canada, 6 Elizabeth II, 1957, for an Order approving the terms and conditions of the issue, sale or other disposition of not more than 2,300,000 shares of the capital stock of the Applicant Company:

File No. 36730.2

UPON hearing the application at the sittings of the Board held at Ottawa on the 12th day of October, 1966, in the presence of Counsel for the Applicant Company, no other person appearing; and upon hearing what was alleged; and upon reading what has been filed in support of the application, public notice of such application having been published in The Canada Gazette in conformity with the requirements of the Board's Rules of Practice, and it appearing that the proposed issue is necessary for the purposes set out in the said application—

IT IS ORDERED that approval be, and it is hereby, given to the issue, sale or other disposition of not more than two million three hundred thousand shares of the capital stock of the Applicant Company, as and when the directors of the Applicant Company may in their discretion decide, at a price not less than \$38.00 per share, upon the following conditions:

(1) That such shares be first offered to the Applicant Company's shareholders pro rata in the ratio of one share for each 14 shares held by them on a date of record to be determined by the Applicant Company's Board of Directors, for the purposes of such issue, such offer to be made not later than October the 18th, 1966, provided, however, that as the said issue is not to be registered under the United States "Securities Act of 1933" and amendments thereto, such offering may stipulate that no subscription will be accepted from any shareholder or person or his agent who appears to be, or the Applicant Company has reason

to believe is, a resident of the United States of America or any territory or possession thereof.

(2) That any shares not taken up by those entitled to do so pursuant to the Applicant Company's offer may be disposed of in such other manner as the Applicant Company's directors may determine at or above the aforesaid price of \$38.00 per share.

(3) That the closing date for subscriptions for such shares be not later than Thursday, November 24th, 1966.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122333

FRIDAY, THE 14TH DAY OF
OCTOBER, A.D. 1966

ROD. KERR, Q.C.,
Chief Commissioner.
H.H. GRIFFIN,
Asst. Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF increased
commutation fares filed with the
Board by the Canadian Pacific Rail-
way Company and the Dominion
Atlantic Railway Company to become
effective on September 17, 1966;*

*AND IN THE MATTER OF Order
No. 122011, dated September 13,
1966, whereby the effective date of
Canadian Pacific Railway Company
Tariff C.T.C. No. 96, Canadian
Pacific Railway Company Tariff
C.T.C. No. 97, and the Dominion
Atlantic Railway Company Tariff
C.T.C. No. 1458 were postponed
until October 17, 1966:*

File No. 29984.18

UPON consideration of the objections submitted to the Board—

IT IS HEREBY ORDERED AS FOLLOWS:

1. The effective date of the said Tariffs which is postponed until October 17, 1966, is further postponed until November 30th, 1966.

2. A hearing to receive evidence in justification of the increased fares and in opposition thereto will be held in Montreal, P.Q., on or about November 15th, 1966. Notice of the exact date and place of the said hearing will be given at a later date.

3. The Canadian Pacific Railway Company shall mail forthwith a copy of its letter dated October 13, 1966, addressed to the Secretary of the Board, respecting commutation fares, together with the three statements attached thereto, to all cities, towns and municipalities served by the Montreal-Vaudreuil-Rigaud commuter service, including the cities of Montreal, Westmount and Montreal West, and also to those individuals who have already registered their interest in this matter, a list of which will be furnished by the Board to the Canadian Pacific Railway Company.

4. Any party intending to appear at the hearing in opposition to the said Tariffs shall file his objection, setting out the substance thereof, to reach the Board not later than November 10, 1966, addressed to C.W. Rump, Secretary, Board of Transport Commissioners for Canada, Ottawa, Ontario, concurrently sending a copy thereof to Mr. G.P. Miller, Q.C., General Solicitor, Law Department, Canadian Pacific Railway Company, Windsor Station, Montreal, P.Q.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDONNANCE N° 122333

VENDREDI 14 OCTOBRE 1966

ROD. KERR, C.R.,
commissaire en chef
H.H. GRIFFIN,
commissaire en chef adjoint
J.-E. DUMONTIER,
commissaire en chef suppléant
W.R. IRWIN,
commissaire
A.S. KIRK,
commissaire

RELATIVE aux tarifs d'abandonnement majorés déposés à la Commission par la Compagnie de chemin de fer du Pacifique-Canadien et par la Dominion Atlantic Railway Company et devant entrer en vigueur le 17 septembre 1966;

ET RELATIVE à l'ordonnance n° 122011, datée du 13 septembre 1966, par laquelle la date d'entrée en vigueur du tarif C.T.C. n° 96 de la Compagnie de chemin de fer du Pacifique-Canadien, du tarif C.T.C. n° 97 de la Compagnie de chemin de fer du Pacifique-Canadien et du tarif C.T.C. n° 1458 de la Dominion Atlantic Railway Company a été reportée au 17 octobre 1966:

Dossier n° 29984.18

APRÈS étude des objections présentées à la Commission—

IL EST PAR LES PRÉSENTES ORDONNÉ CE QUI SUIT:

1. La date d'entrée en vigueur desdits tarifs, qui avait été reportée au 17 octobre 1966, est reportée au 30 novembre 1966.

2. Une audience sera tenue à Montréal (P.Q.) le 15 novembre 1966, ou vers cette date, à laquelle seront reçues les dépositions à l'appui des tarifs majorés et les dépositions à l'encontre de ces tarifs. La date exacte et le lieu de ladite audience seront donnés dans un avis ultérieur.

3. La Compagnie de chemin de fer du Pacifique-Canadien enverra immédiatement par la poste une copie de la lettre qu'elle a adressée au secrétaire de la Commission le 13 octobre 1966, relativement aux tarifs d'abonnement, ainsi que des trois états y annexés, à toutes les villes et municipalités desservies par le service de banlieue Montréal-Vaudreuil-Rigaud, y compris les villes de Montréal, de Westmount et de Montréal-Ouest, et à tous les particuliers qui ont

déjà déclaré s'intéresser à cette question; la Commission fournira une liste de ces intéressés à la Compagnie de chemin de fer du Pacifique-Canadien.

4. Toute partie qui entend comparaître à l'audience afin de s'opposer auxdits tarifs devra déposer auprès de la Commission un exposé donnant la nature de ses objections, devant parvenir à celle-ci au plus tard le 10 novembre 1966 et devant être adressé à M. C.W. Rump, Secrétaire, Commission des transports du Canada, Ottawa (Ont.), et envoyer en même temps un exemplaire de cet exposé à M. G.P. Miller, C.R., Avocat général, Contentieux, Compagnie de chemin de fer du Pacifique-Canadien, Gare Windsor, Montréal (P.Q.).

Le Commissaire en chef,

ROD. KERR

ORDER NO. 122432

FRIDAY, THE 28TH DAY OF
OCTOBER, A.D. 1966

H.H. GRIFFIN,
Asst. Chief Commissioner.
A.S. KIRK,
Commissioner

IN THE MATTER OF the statutory speed restriction at the crossing of the railway of the Canadian National Railways and St. Charles Street in Dorion, in the Province of Quebec, mileage 24.64 Kingston Subdivision, which applies as a result of the accident which occurred at the said crossing on October 7, 1966:

File No. 9437.461

WHEREAS the Board has decided to hold a public inquiry into the causes of the above-mentioned accident; and

WHEREAS, for the purpose of this inquiry, it is considered advisable to make certain tests respecting the operation of the signals in relation to trains entering the circuit which operates such signals; and

WHEREAS it is reported that the train involved in the said accident was proceeding at the rate of speed of approximately fifty-five miles per hour; and

WHEREAS, in order to reconstruct the movements of such train it is necessary to relieve the Railway from the statutory speed restriction imposed by section 312 of the Railway Act for the purpose of such tests, it will require the train to proceed at a rate of speed of approximately fifty-five miles per hour;

IT IS HEREBY ORDERED AS FOLLOWS:

The speed limitation prescribed by subsection (4) of section 312 of the Railway Act shall not be in effect at the said crossing in respect of the test train that will be used in the experiment ordered by the Board on Tuesday, November 1st, 1966.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, AUGUST, 1966

	<i>Accidents</i>	<i>Killed</i>	<i>Injured</i>
Railway Accidents	287	10	315
Level Crossing Accidents	30	16	32
	<u>317</u>	<u>26</u>	<u>347</u>

	<i>Killed</i>	<i>Injured</i>
Passengers	—	115
Employees	1	197
Others	25	35
	<u>26</u>	<u>347</u>

Of the 30 accidents at Highway Crossings, 16 occurred where standard railway crossing signs are located, 14 where additional forms of protection are in use, 23 after Sunrise and 7 after Sunset.

OTTAWA, ONT.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 122104 September 22 – Authorizing the County of Welland Ont., to construct a diversion of County Road No. 7, approximately 3,000 feet long, south of the C.N.R. from Yager Road to County Road No. 16, eliminating an existing crossing of County Road No. 7 at mileage 15.72 Cayuga Subd.
- 122105 September 22 – Approving location of Naicam Co-Operative Association Limited, proposed Ammonium Nitrate storage facility at Naicam, Sask. near mileage 49.3 Melfort Subd. C.P.R.
- 122106 September 22 – Approving location of Codette Co-Operative Association Limited proposed Ammonium Nitrate storage facility at Codette, Sask. near mileage 125.5 Tisdale Subd. C.P.R.
- 122107 September 22 – Authorizing the County of Simcoe, Ont. to improve the vision at the crossing of County Road No. 9 and the C.N.R. in the Township of Sunnidale, mileage 15.60 Meaford Subd.
- 122108 September 22 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 19.60 West Shefford Subd., P.Q.
- 122109 September 22 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Cloverleaf, Man., mileage 99.76 Keewatin Subd.
- 122110 September 22 – Authorizing the C.N.R. to make improvements to the automatic protection at the crossing of their railway and Highway No. 38 in Laval sur le Lac, P.Q. at mileage 9.28 Montfort Subd.
- 122111 September 23 – Approving the location of the proposed liquefied petroleum gas bulk storage and transfer facilities of Northwest L.P.G. Supply Ltd. to serve the Pacific Logging Co. at Slocan, B.C. near mileage 31.4 Slocan Subd. C.P.R.
- 122112 September 23 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from a crossing of their railway and the highway at mileage 15.18 Cayuga Subd. to a crossing at mileage 33.86 Burford Subd., Ont.
- 122113 September 23 – Revoking authority of Order No. 85593 which approved the location of flammable liquid handling and storage facilities of Canadian Propane Gas Distributors, at Parkhill, Ont. C.N.R.

- 122114 September 23 – Extending the time within which C.N.R. are required to locate the temporary liquefied petroleum gas transfer facilities of the Trans Mountain Oil Pipe Line Co. at Blue River, B.C. near mileage 0.18 Clearwater Subd.
- 122115 September 23 – Approving changes to the automatic protection at the crossing of C.N.R. and Hope St., South, in the Town of Port Hope, Ont. mileage 270.05 Kingston Subd.
- 122116 September 23 – Amending Order 118480 which extended the time required to construct the highway across the industrial spur of the C.N.R. serving Saint John Shipbuilding and Dry Dock Co., west of Bayside Drive, Parish of Simonds, N.B.
- 122117 September 23 – Approving changes to the automatic protection at the crossing of C.N.R. and Toll Gate Road, City of Cornwall, Ont. mileage 68.60 Kingston Subd.
- *122118 September 26 – Amending General Order No. 0-10, Railway Safety Appliance Standards (See page 1201, 56 B.T.C.)
- 122119 September 26 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Blainville St., City of Ste. Therese, P.Q. mileage 0.58 Ste. Agathe Subd.
- 122120 September 26 – Authorizing the Township of East Flamborough to reconstruct Township Road at the crossing of the C.P.R. in Lot 6, bet. Concs. 6 & 7, County of Wentworth, Ont. mileage 8.71 Goderich Subd.
- 122121 September 26 – Authorizing payment from The Railway Grade Crossing Fund towards the cost of placing of reflective markings on the sides of railway cars in respect of the Nipissing Central Railway Company.
- 122122 September 26 – Authorizing the City of Saint-Hyacinthe, P.Q. to construct a sidewalk on the north side of Sicotte St. at the crossing of the C.N.R. at mileage 0.24 of the spur which leads from the St-Hyacinthe Subd. at mileage 40.93.
- 122123 September 26 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Shaftesbury Blvd., in the Town of Tuxedo, Man., mileage 6.27 Rivers Subd.
- 122124 September 26 – Approving location of the proposed Ammonium Nitrate storage facility of Federated Co-Operatives Limited at Colonsay, Sask. near mileage 75.6 Sutherland Subd. C.P.R.

- 122125 September 26 – Authorizing the C.P.R. to operate over the relocated portion of the Belleville Subd. between mileage 196.7 and mileage 198.7 (formerly Oshawa Subd. mileage 94.2 and mileage 96.2) and of the Havelock Subd. between mileage 179.7 and mileage 181.6 (formerly Peterborough Subd. mileage 86.0 and 87.9) Township of Scarborough, County of York, Ont.
- 122126 September 26 – Approving By-law No. 16807, prohibiting the sounding of engine whistles prescribed by section 311(1) of the Railway Act with respect to the crossings listed in the said By-law, in the Township of North York, Ont. C.N.R., C.P.R.
- 122127 September 26 – Authorizing the Township of East Flamborough to improve the township road in Lot 7, Conc. 13, at the crossing of the C.P.R., County of Wentworth, Ont. mileage 42.57 Galt Subd.
- 122128 September 26 – Authorizing the Saskatchewan Department of Highways and Transportation to construct a temporary crossing of Highway No. 7 and the C.N.R. in the NE¼ of Sec. 11, Twp. 32, Rge. 12, West Third Meridian mileage 45.43 Rosetown Subd.
- 122129 September 26 – Authorizing the Saskatchewan Department of Highways and Transportation to widen Highway No. 330 at the crossing of the C.P.R. bet. the NE¼ of Sec. 23 and the NW¼ of Sec. 24, in Twp. 34, Rge. 23, West Third Meridian, mileage 0.38 Reford Subd.
- 122130 September 30 – Authorizing the C.N.R. to install protection at the crossing of their railway and Carleton County Road No. 7 east of Richmond, Ont. mileage 11.97 Smiths Falls Subd.
- 122131 September 27 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and the Township Road, bet. Concs. 4 and 5, Twp. of Albion, Ont. mileage 25.58 MacTier Subd.
- 122132 September 27 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Prov. Highway No. 248 in Fannystelle, Man., mileage 30.73 Glenboro Subd.
- 122133 September 27 – Amending Order 119386 which authorized the Village of Sainte-Anne de Beaupre to construct Caron St. across the C.N.R., County of Montmorency, P.Q. mileage 20.98 Murray Bay Subd.

- 122134 September 27 – Authorizing the C.P.R. to improve the protection at the crossing of its railway and Tecumseh Road, in the City of Windsor, Ont. mileage 110.77 Windsor Subd.
- 122135 September 27 – Authorizing E.T.R. to improve the protection at the crossing of its railway and Tecumseh Blvd. West, in the City of Windsor, Ont. mileage 3.60 Main Line Subd.
- 122136 September 27 – Authorizing the British Columbia Department of Highways to construct an overhead bridge carrying the North Thompson Highway across and over the C.P.R. at mileage 127.17 Shuswap Subd., B.C. which will eliminate existing crossing at mileage 127.11.
- 122137 September 27 – Amending Order 120264 which authorized the Saskatchewan Department of Highways and Transportation to construct an overhead bridge to carry an additional dual lane roadway of Highway No. 11 across and over the C.N.R. in the NE¼ of Sec. 2, Twp. 36, Rge. 5, West Third Meridian, mile 185.22 Watrous Subd. (formerly mileage 56.2 Asquith Subd.)
- *122138 September 27 – Suspending freight tariffs filed by Canadian Millers Association; The Maritime Transportation Commission to become effective October 1, 1966, adjusting freight charges in respect of former absorption of top wharfage charges at ports (See page 1216, 56 B.T.C.)
- 122139 September 28 – Authorizing the C.N.R. to open for the carriage of traffic their industrial track along Pruneau Ave. and across the intersection of "D" St. and Bechard Ave., City of Quebec West, P.Q.
- 122140 September 28 – Authorizing the C.N.R. to operate their engines, cars and trains over the private siding serving Pettigrew and Letellier Ltd. and across Pruneau Ave. in the City of Quebec West, P.Q.
- 122141 September 29 – Exempting the C.P.R. from erecting and maintaining fences between mileages 16.85 and 17.35 (West Side) of the right of way of its Miniota Subd., Man.
- 122142 September 29 – Authorizing the C.P.R. to construct a siding across 34th Street, City of Saskatoon, Sask. to serve M.E.P.C. Canadian Properties Ltd.
- 122143 September 29 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from the crossing of their railway and the highway at mileage 205.99 Monk Subd. to a crossing at mileage 78.71 Taschereau Subd., P.Q.

- 122144 September 29 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from the crossing of their railway and the highway at mileage 58.58 Joliette Subd. to another crossing of their railway at mileage 40.28 Linton, P.Q.
- 122145 September 29 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from the crossing of their railway and the highway at mileage 104.59 Joliette Subd. to another crossing of their railway at mileage 20.52 Linton, P.Q.
- 122146 September 29 – Authorizing the C.N.R. to relocate the existing reflectorized crossing signs from the crossing of their railway and the highway at mileage 77.56 Joliette Subd. to another crossing of their railway at mileage 21.94 Linton, P.Q.
- 122147 September 29 – Approving the tariffs and supplements to tariffs filed by the Canadian Freight Association under Section 3 of the M.F.R.A.
- 122148 September 29 – Approving tariffs filed by the British Columbia Telephone Company.
- 122149 September 29 – Authorizing the removal of the speed limitation at the crossing of the Highway and the C.N.R. between Osler and Hague, Sask., mileage 7.54 Duck Lake Subd.
- *122150 September 29 – Approving erection of signboards at the crossings of the C.N.R. and C.P.R. railways and the highway as provided by clause 9 of General Order E-4 (See page 1219, 56 B.T.C.)
- 122151 September 29 – Amending Order 121117 which authorized the Quebec Department of Roads to widen and improve Anse-a-Gilles Road across the C.N.R. in the Municipality of Cap St-Ignace, County of Montmagny, mileage 69.57 Montmagny Subd.
- 122152 September 29 – Exempting the C.P.R. from erecting and maintaining right of way fences between certain mileages on the north side of the right of way of its Carleton Place Subd., City of Ottawa, Ont.
- 122153 September 30 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Jasper Road, at mileage 5.48 Brockville Subd., Ontario.

- 122154 September 30 – Approving tariffs filed by The Bonaventure and Gaspé Telephone Company Limited.
- 122155 September 30 – Amending Order 122024 which authorized the removal of the speed restriction at the crossing of the highway and the C.N.R. at mileage 8.9 Camrose Subd., Alta.
- 122156 September 30 – Approving tariffs and supplements to tariffs filed by the C.P.R. under provisions of Subsection 3 of Section 3 of the M.F.R.A.
- 122157 September 30 – Revoking authority of Orders 62631 and 74270 which approved the location of flammable liquid bulk storage facilities of C.P.R. at Woodstock, Ont.
- 122158 September 30 – Authorizing the Quebec Department of Roads to construct Montee St-Isidore across the C.N.R. in the Parish of St. Isidore, County of Laprairie, at mileage 72.25 Massena Subd.
- 122159 September 30 – Authorizing the Quebec Department of Roads to construct Montee St-Isidore across the C.N.R. in the Parish of St. Isidore, County of Laprairie, mileage 0.25 Hemmingford Subd.
- 122160 September 30 – Approving changes to signals between mileage 0 and mileage 20 and mileage 20 and mileage 40, Quebec North Shore and Labrador Railway Co., P.Q.
- 122161 September 30 – Exempting the C.P.R. from erecting and maintaining fences between mileages 130.8 and 131.5, south side, and from mileages 135.1 to 135.7 north side on its Glenboro Subd. Man.
- 122162 September 30 – Authorizing the C.P.R. to construct a siding to serve B.C. Packers Limited, at grade across No. 1 Road at Steveston, Town of Richmond, B.C. mileage 7.9 Steveston Branch.
- 122163 September 30 – Authorizing the C.P.R. to construct an industrial lead track across 28th Street "A" East and 32nd St. E. mileages 0.17 and 0.60 respectively, which commences at mileage 71.14 Owen Sound Subd., City of Owen Sound, Ont.
- 122164 September 30 – Authorizing the British Columbia Department of Highways to construct Dorman Road across the C.P.R.'s E. & N. railway spur line near mileage 75.8 Victoria Subd. in the City of Nanaimo.

- 122165 September 30 – Revoking authority of Orders 79971 and 83869 which approved the location of handling and storage of flammable liquids of Imperial Oil Limited near the C.N.R. at Chatham, N.B.
- 122166 September 30 – Revoking authority of Orders 73983 and 75475 which approved the location of handling and storage of flammable liquid facilities of Imperial Oil Limited near the C.N.R. at Richibucto, N.B.
- 122167 September 30 – Authorizing the Twin City Gas Company Limited to install a 10 inch high pressure steel gas pipeline across and under the C.P.R. spur serving Great Lakes Paper Company and under the C.N.R. at mileage 0.19 wye connection, commencing at mileage 0.38 Mission Spur, which commences at mileage 7.78 Kashabowie Subd. on Neebing Ave. in the City of Fort William, Ontario.
- 122168 October 3 – Authorizing the C.P.R. to construct a second track across County Road No. 6 at Zorra, County of Oxford, Ont., mileage 93.97 Galt Subd.
- 122169 October 3 – Allocating the cost of maintenance and operation of protection at the crossing of the C.P.R. and Madoc Road, Ont., mileage 71.48 Havelock Subd.
- 122170 October 3 – Revoking authority of Order 76117 which approved the location of handling and storage of flammable liquids of Superline Oils Limited at St. Andrews, N.B. C.P.R.
- 122171 October 3 – Allocating the cost of maintenance and operation of the automatic protection at the crossing of the C.N.R. and County Road No. 1 in Lots 1 and 2, Conc. 7, Twp. of Thurlow, County of Hastings, Ont. mileage 8.13 Campbellford Subd.
- 122172 October 3 – Authorizing the C.P.R. to make changes to the signals on its Adirondack Subd. between mileages 42.4 and 43.9 and between mileages 47.0 and 48.7, P.Q.
- 122173 October 3 – Authorizing the C.P.R. to make changes to the signals on its Winchester Subd. between mileages 2.1 and 5.0, P.Q.
- 122174 October 3 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Norma Street in Arnprior, Ont., mileage 26.92 Renfrew Subd.

- 122175 October 3 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Main Street, in Argenteuil, P.Q. mileage 44.52 Lachute Subd.
- 122176 October 3 – Authorizing the C.N.R. to construct two pedestrian subways across and under their right of way and tracks in the Township of Scarborough, County of York, Ont. at mileage 321.45 Kingston Subd.
- 122177 October 3 – Approving the changes to the automatic protection at the crossing of C.N.R. and St-Esprit Road, in the Parish of l'Epiphanie, P.Q. mileage 113.20 Joliette Subd.
- 122178 October 3 – Approving the changes to the automatic protection at the crossing of C.N.R. and St. Charles Road, west of Pointe Claire, P.Q. mileage 15.65 Kingston Subd.
- 122179 October 3 – Approving the changes to the automatic protection at the crossing of C.N.R. and Woodland Avenue, west of Pointe Claire, P.Q. mileage 17.52 Kingston Subd.
- 122180 October 4 – Authorizing the C.N.R. to abandon their private spur track at Brooklands, Manitoba, mileage 5.16 Oak Point Subd.
- 122181 October 4 – Authorizing the Saskatchewan Department of Highways and Transportation to reconstruct Highway No. 330 crossing the C.P.R. between the SE¼ of Sec. 23 and the SW¼ of Sec. 24, Twp. 34, Rge. 23, West 3rd Meridian, mileage 0.91 Macklin Subd.
- 122182 October 4 – Authorizing the Alberta Department of Highways to reconstruct and improve the crossing of Park Road No. 110 and the C.P.R. between the NW¼ of Sec. 7 and the SW¼ of Sec. 18, Twp. 15, Rge. 23, W4M, at mileage 39.12 Aldersyde Subd.
- 122183 October 4 – Authorizing the C.N.R. to close the crossing of their railway and the County Road at mileage 105.56 Coronado Subd., Alta.
- 122184 October 4 – Authorizing the City of Saskatoon, Sask. to construct Circle Drive across the C.N.R., at mileage 0.25 of the Industrial Spur which commences at mileage 4.19 Warman Subd.
- 122185 October 4 – Amending Order No. 118001 which authorized the C.N.R. to relocate the existing reflectorized signs from the crossing of their railway and the highway at mile 86.05 Oak Point Subd. to another level crossing at mileage 31.31 Oak Point Subd., Man.

- 122186 October 4 – Authorizing the Township of Oro, Ont. to construct the Township Road across the C.N.R. in Lot 1, Con. 1, mileage 66.70 Newmarket Subd.
- 122187 October 4 – Authorizing the C.N.R. to construct their Main Lead No. 1 which commences at mileage 132.19 Drumheller Subd. City of Calgary, Alta. across a road (unopened) in the SE quadrant of Sec. 33; a future expressway (unopened) in the SE quadrant of Sec. 28 and 82nd Ave. S.E. at mileage 2.27 of the said Main Lead.
- 122188 October 4 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 122189 October 4 – Authorizing the Metropolitan Corporation of Greater Winnipeg, Man. to construct an overhead bridge to carry Nairn Ave., across and over the C.P.R., at mileage 124.29 Keewatin Subd. and mileage 0.18 Lac du Bonnet Subd., eliminating existing level crossings and authorizing the C.P.R. to construct a deviation of its Lac du Bonnet Subd. to permit construction of said overhead bridge.
- 122190 October 4 – Approving changes to signal system of the C.N.R. between mileages 0.0 and 16.82 Warman Subd., Sask.
- 122191 October 4 – Authorizing the Ontario Department of Highways to construct a subway to carry Highway #122 (formerly 5th Line Road and Southdown Road) across and under the C.N.R. Twp. of Toronto, mileage 16.62 Oakville Subd. eliminating the existing crossing at grade and authorizing the C.N.R. to construct a bridge over Sheridan Creek, mileage 16.7 Oakville Subd.; authorizing C.N.R. to construct temporary deviation of their railway to permit construction of said subway and bridge and authorizing C.N.R. to construct two temporary pedestrian crossings.
- 122192 October 5 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Clearwater, Man. mileage 21.2 Napinka Subd.
- 122193 October 5 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Alexandra Ave. at Port Credit, Ont. mileage 11.03 Oakville Subd.
- 122194 October 5 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Val Alain Road, at Val Alain, P.Q., mileage 40.00 Drummondville Subd.

- 122195 October 5 – Authorizing the location of the flammable liquid bulk storage and transfer facilities of Canora Consumers Co-Operative Association Ltd. at Preeceville, Sask. near mileage 72.0 Preeceville Subd. C.N.R.
- 122196 October 5 – Authorizing the C.N.R. to remove the station agent and retire the station building at Inkerman, N.B. mileage 61.0 Caraquet Subd.
- 122197 October 5 – Authorizing the Quebec Hydro-Electric Commission, to construct a pedestrian subway across and under the C.N.R. at Boischatel, County of Montmorency, P.Q. at mileage 6.58 Murray Bay Subd.
- 122198 October 5 – Authorizing the C.P.R. to install protection at the crossing of its railway and Pitt River Road, District of Coquitlam, B.C., mileage 1.52 Westminster Subd.
- 122199 October 5 – Amending Order 115648 which authorized the Ontario Department of Highways to relocate and widen Highway No. 609 at the crossing of the C.N.R. at Quibell, Ont., from mileage 74.62 to mileage 74.65 Redditt Subd. and to install automatic protection at said crossing.
- 122200 October 5 – Authorizing the C.P.R. to install protection at the crossing of its railway and Waverly St. in Fort Garry, Man. mileage 2.06 Manitoba Sugar Spur which commences at mileage 8.5 LaRiviere Subd.
- 122201 October 5 – Authorizing the C.P.R. to install protection at the crossing of its railway and Ste-Marie Rd., in the Parish of St-Polycarpe, P.Q. mileage 34.65 Winchester Subd.
- 122202 October 5 – Approving location of the proposed additional bulk storage and transfer facilities of Imperial Oil Limited at Thorsby, Alta. near mileage 91.2 Hoadley Subd. C.P.R.
- 122203 October 5 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Piopolis.
- 122204 October 5 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Co. of Canada and The Dawson Township Amalgamated Telephone Co. Ltd.
- 122205 October 5 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and Calabogie Telephone System.

- 122206 October 5 – Approving Supplement No. 5 to Traffic Agreement Between The Bell Telephone Company of Canada and Harwood Rural Telephone Company Limited.
- 122207 October 5 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and The Corporation of the City of Fort William.
- 122208 October 5 – Approving location of the flammable liquid bulk storage and transfer facilities of British American Oil Company Limited at Dolbeau, P.Q., near mile 57.4 Roberval Subd. C.N.R.
- 122209 October 5 – Approving location of the proposed additional liquefied petroleum gas transfer facilities of Thompson Gas Limited at Thompson, Manitoba near mile 30.7 Thompson Subd. C.N.R.
- 122210 October 5 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Allenford Rural Telephone Company Limited.
- 122211 October 5 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Sebright Telephone Company Limited.
- 122212 October 5 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Risborough.
- 122213 October 5 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Wollaston Telephone System.
- 122214 October 6 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Van Buren Street, Town of Kemptville, Ont. mileage 29.16 Prescott Subd.
- 122215 October 6 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Telebec Inc.
- 122216 October 6 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Leeds and Frontenac Rural Telephone Company Limited.
- 122217 October 6 – Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and The Telephone System of the Municipality of the Township of Otonabee.

- 122218 October 6 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Amherst Island.
- 122219 October 6 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Corporation of the Township of Tay.
- 122220 October 6 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and McKillop, Logan & Hibbert Telephone Company Limited.
- 122221 October 6 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Flos.
- 122222 October 6 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of McKellar.
- 122223 October 6 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and the Maberly Telephone Company Limited.
- 122224 October 6 – Approving Supplement No. 15 to Traffic Agreement between The Bell Telephone Company of Canada and Oxford Telephone Company Limited.
- 122225 October 6 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Addington Telephone Company Limited.
- 122226 October 6 – Authorizing the C.N.R. to remove the station agent at Winter, Sask. mileage 77.3 Wainwright Subd.
- 122227 October 6 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Tramping Lake, Sask. mileage 18.6 Reford Subd.
- 122228 October 6 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and the City of Port Arthur.
- 122229 October 6 – Approving Supplement No. 20 to Traffic Agreement between The Bell Telephone Company of Canada and The Telephone System of the Municipality of the Township of Moore.

- 122230 October 6 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Tiny.
- 122231 October 6 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Montcalm Street, Hull, P.Q., in lieu of existing protection at mileage 89.87 M. & O. Subd.
- 122232 October 6 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Howick.
- 122233 October 6 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and The Corporation of the Town of Dryden.
- 122234 October 6 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Pefferlaw Telephone System Limited.
- 122235 October 6 – Approving Supplement No. 10 to Traffic Agreement between The Bell Telephone Company of Canada and The Monk Rural Telephone Company Limited.
- 122236 October 6 – Approving Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and The Horton and McNabb Telephone Association Ltd.
- 122237 October 6 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and The Burnt River Telephone Company Limited.
- 122238 October 6 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Telephone System of the Municipality of the Village of Magnetawan.
- 122239 October 6 – Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Percy.
- 122240 October 6 – Approving Supplement No. 13 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Blanshard.

- 122241 October 6 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Lansdowne Rural Telephone Company Limited.
- 122242 October 6 – Approving Supplement No. 10 to Traffic Agreement between The Bell Telephone Company of Canada and the Eastern Community Telephone Company Limited.
- 122243 October 6 – Approving Supplement No. 18 to Traffic Agreement between The Bell Telephone Company of Canada and The Aylmer and Malahide Telephone Company Limited.
- 122244 October 6 – Authorizing the C.N.R. to operate their engines, cars and trains over the subway which carries their tracks across and over Suburban Road No. 11 (Middle Road), Township of Louth, County of Lincoln, Ont. mileage 13.91 Grimsby Subd.
- 122245 October 7 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Telephone de Warwick.
- 122246 October 7 – Authorizing the Manitoba Hydro to construct an overhead bridge to carry an access road across and over the C.N.R. at mileage 329.3 Herchmer Subd., Man.
- 122247 October 7 – Authorizing the C.N.R. to relocate their existing westward main line track and to construct an additional main line track across Stavebank Road, in the Town of Port Credit, Twp. of Toronto, Ont. mileage 13.11 Oakville Subd.
- 122248 October 7 – Exempting the C.P.R. from fencing between Mile 53.00 and 53.17 South Side; mile 54.11 and 54.43 South Side and from mile 57.99 to 58.30 (Both sides) on its Wood Mountain Subd., Sask.
- 122249 October 7 – Authorizing the C.N.R. to construct an additional main line track across Galloway Road, Twp. of Scarborough, Ont. mileage 320.95 Kingston Subd.
- 122250 October 7 – Exempting the C.P.R. from fencing between mileage 47.71 and 48.23 and from mileage 48.45 to 48.73 on both sides of the right of way of its Vanguard Subd., Sask.
- 122251 October 7 – Authorizing the removal of the speed limitation at the crossing of the Quebec Central Railway Company and Notre Dame Street, (first crossing north of the station) at Thetford Mines, P.Q. mileage 72.14 Quebec Subd.

- 122252 October 7 – Authorizing the C.N.R. to close the crossing of the Highway and their railway in the Southeast quarter of Section 17, Twp. 23, Rge. 7, West 2nd Meridian, in the Rural Municipality of Stanley No. 215, Sask. at mileage 7.17 Watrous Subd.
- 122253 October 7 – Approving changes to the automatic protection at the crossing of C.N.R. and Third Avenue east of Vaudreuil, P.Q., mileage 23.57 Kingston Subd.
- 122254 October 24 – Authorizing the C.P.R. to construct a siding across Signet Drive to serve American Biltrite Rubber Company (Canada) Limited in Lot 24, Con. 5WY, Twp. of North York, Ont. which commences on its industrial track with headblock at mileage 8.57 MacTier Subd.
- 122255 October 7 – Authorizing the C.N.R. to construct an additional main line track and service track at the crossing of their railway and Midland Avenue, Twp. of Scarborough, Ontario, mileage 324.98 Kingston Subd.
- 122256 October 7 – Approving changes to automatic protection at the crossing of C.N.R. and Beaudette River West Road, Village of Riviere Beaudette, P.Q., mileage 43.64 Kingston Subd.
- 122257 October 7 – Authorizing the C.N.R. to install protection at the crossing of their railway and Sixth Avenue, Town of Senneterre, P.Q., mileage 137.52 Oskelaneo Subd.
- 122258 October 7 – Authorizing the C.N.R. to construct a bridge across and over the Vermillion River, Township of Hanmer, District of Sudbury, Ont., mileage 1.0 Ruel Subd.
- 122259 October 7 – Authorizing the Quebec Department of Roads to relocate Etchemin River Road at the crossing of the C.N.R. in the Municipality of Louis Joliette mileage 198.95 Monk Subd.
- 122260 October 7 – Amending Order 117381 which authorized the C.P.R. to install two flashing light signals and one bell at the crossing of its "L" Yard Lead, off mileage 1.25 Carberry Subd. and Wellington Avenue, City of Winnipeg, Man.
- 122261 October 7 – Authorizing the C.N.R. to install protection at the crossing of their railway and Middlesex County Road No. 22, Ontario, at mileage 12.59 Exeter Subd.

- 122262 October 7 – Authorizing the Department of Public Works of Canada, to construct an access road at the crossing of the C.N.R. mileage 18.24 Argentia Subd., Nfld.
- 122263 October 7 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 3, P.E.I. mileage 32.16 Georgetown Subd.
- 122264 October 7 – Authorizing the C.N.R. to make track changes at the crossing of their railway and St. Clair Avenue, Township of Scarborough, Ont. mileage 325.18 Kingston Subd.
- 122265 October 7 – Authorizing the Township of Marlborough to improve Township Road where it crosses the C.N.R. between Concessions 8 and 9, in Lot 23, County of Carleton Ont. mileage 20.70 Smiths Falls Subd.
- 122266 October 7 – Authorizing the County of Peel to improve Baseline Road at the crossing of the C.P.R. between Lot 1, Conc. 2 West, Twp. of Caledon, and Lot 34, Con. 2 West, Twp. of Chinguacousy, Ont. mileage 19.3 Orangeville Subd.
- 122267 October 7 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Naugler Road, Lunenburg County, N.S. mile 74.20 Chester Subd.
- 122268 October 8 – Authorizing the Department of Public Works of Canada to construct an access road across the C.N.R. at mileage 18.83 Argentia Subd., Nfld.
- 122269 October 7 – Revoking authority of Orders 55718 and 63469 which approved location of flammable liquid bulk storage facilities of North Star Oil Limited at Oak Lake, Man. C.P.R.
- 122270 October 7 – Revoking authority of Order No. 88617 which approved proposed location of storage of flammable liquid facilities of Husky Oil & Refining Limited at White River, Ontario C.P.R.
- *122271 October 11 – Authorizing the C.N.R. to discontinue operation of Trains No. 49 and No. 50 (changed from Nos. 87 and 88) between Kapuskasing and Hearst, Ont. and to substitute a bus service in lieu thereof (See page 1261, 56 B.T.C.)
- 122272 October 11 – Authorizing the C.N.R. to construct an additional main line track across Golf Club Road in the Township of Scarborough, Ont., at mileage 321.87 Kingston Subd.

- 122273 October 11 – Authorizing the C.N.R. to construct an additional main line track across McGowan Road, Township of Scarborough, Ont. at mileage 323.63 Kingston Subd.
- 122274 October 11 – Authorizing the Quebec Department of Roads to improve 10th Avenue at the crossing of the C.N.R. in the Town of Senneterre, P.Q. at mileage 137.90 Oskelaneo Subd. and authorizing the C.N.R. to relocate and improve the protection at the crossing.
- 122275 October 11 – Exempting the C.P.R. from erecting fencing between certain mileages on the rights of way of its Burstall Subd. and Schuler Spur, Alta.
- 122276 October 11 – Exempting the C.N.R. from Clause 53(1) of General Order E-14 in respect to the main track switch at the siding at mileage 113.94 Drummondville Subd., P.Q.
- 122277 October 11 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker express-agent at Primate, Sask. mileage 39.3 Macklin Subd.
- 122278 October 11 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Amisk, Alta. mileage 117.4 Hardisty Subd.
- 122279 October 11 – Authorizing the Statute Labour Board for the Townships of Street, Scadding, Rathbun, Kelly and Davis, Ont. to construct the Township road across the C.N.R. in the Township of Street, mileage 125.31 Alderdale Subd.
- 122280 October 11 – Authorizing the C.N.R. to operate on the Bridge carrying their railway over Twin Creek, B.C. at mileage 16.5 Fraser Subd.
- *122281 October 11 – Amending Regulations for the Transportation of Dangerous Commodities by Rail prescribed by General Order 0-29 (See page 1264, 56 B.T.C.)
- 122282 October 11 – Requiring that the speed of trains of the C.N.R. do not exceed eighty miles per hour when passing over the diamond crossing at the interlocking at mileage 204.93 Watrous Subd., Sask.
- 122283 October 12 – Authorizing the C.N.R. to operate on a bridge in B.C. at mileage 53.42 Fraser Subd.
- 122284 October 12 – Approving revised Plan 167-1-V showing the crossing of the C.P.R. and Lotbiniere Road in St-Lazare, P.Q. at mileage 23.75 Winchester Subd.

- 122285 October 12 – Allocating the cost of maintenance and operation of the automatic protection and maintenance of the crossing of the C.N.R. and Highway No. 69, City of Sudbury, Ontario mileage 4.83 Sudbury Terminal Subd.
- *122286 October 12 – Authorizing the C.N.R. to abandon 7,859 feet of their spur serving the University of Manitoba at mileage 4.09 Letellier Subd., Man. (See page 1265, 56 B.T.C.)
- *122287 October 12 – Approving the terms and conditions of the issue, sale or other disposition of not more than 2,300,000 shares of capital stock of The Bell Telephone Company of Canada (See page 1266, 56 B.T.C.)
- 122288 October 12 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122289 October 12 – Authorizing the C.P.R. to permanently convert into a fixed span the swing span of the bridge over the Red River, City of Winnipeg, Man. mileage 124.6 Keewatin Subd.
- 122290 October 12 – Authorizing the C.N.R. to operate their engines, cars and trains on the siding serving Shell Canada Limited which crosses MacKenzie Drive in the Town of Hay River, N.W.T. mileage 376.75 Great Slave Lake Railway.
- 122291 October 12 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway, second crossing east of the Village of Spy Hill, Sask. mileage 224.11 Rivers Subd.
- 122292 October 12 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Vera, Sask. mileage 68.53 Wainwright Subd.
- *122293 October 12 – Amending General Order No. E-7, Rules Governing the Preparation of Accounts to Apply to Joint Projects Undertaken under Order of the Board. (See page 1263, 56 B.T.C.)
- 122294 October 12 – Approving construction of siding serving Christie Woodworking Company Limited across Brunswick Street, City of Saint John, N.B. opposite mileage 0.65 Courtenay Bay Branch, off mileage 85.39 Sussex Subd. and authorizing the C.N.R. to operate over said siding.
- 122295 October 12 – Authorizing the C.P.R. to operate through the concrete rock sheds at the east and west ends of the tunnel at mileage 101.2 Thompson Subd., B.C.

- 122296 October 12 – Authorizing the Trans-Canada Pipe Lines Ltd. to construct a natural gas pipe line across and under the tracks of the C.N.R. in the NE¼ of Sec. 8, Twp. 17, Rge. 28, W.P.M., R.M. of Ellice, Man. mileage 204.0 Rivers Subd.
- 122297 October 12 – Authorizing the Trans-Canada Pipe Lines Limited to construct a natural gas pipe line across and under the tracks of the C.N.R. between the NE¼ and SE¼ of Sec. 2, Twp. 12, Rge. 12, W.P.M., Man. mileage 87.01 Rivers Subd.
- 122298 October 12 – Authorizing the Trans-Canada Pipe Lines Limited to construct a natural gas pipe line across and under the tracks of the C.N.R. in the NW¼ of Sec. 31, Twp. 13, Rge. 25, W.P.M., Man. mileage 173.43 Rivers Subd.
- 122299 October 12 – Authorizing the Trans-Canada Pipe Lines Limited to construct a natural gas pipe line across and under the tracks of the C.N.R. in the SW¼ of Sec. 2, Twp. 21, Rge. 28, W.P.M., R.M. of Russell, Man. mileage 103.75 Rossburn Subd.
- 122300 October 12 – Authorizing the C.P.R. to operate through the concrete rock shed at mileage 10.2 Cascade Subd., B.C.
- 122301 October 12 – Authorizing the Alberta Department of Highways to reconstruct District Highway No. 524 H across the C.N.R. between the NW¼ of Sec. 16 and the NE¼ of Sec. 17, Twp. 54, Rge. 15, W.P.M., Alta. mileage 116.73 Edson Subd.
- 122302 October 12 – Authorizing the C.P.R. to operate through the concrete rock shed at mileage 39.3 Cascade Subd., B.C.
- 122303 October 12 – Authorizing the C.P.R. to relocate the former westward main track across 8th Street N.W., City of Portage la Prairie, Man. mileage 56.26 Carberry Subd.
- 122304 October 12 – Amending Order 121645 which authorized the C.P.R. to construct an additional track across Third Street North, City of Cranbrook, B.C. mileage 98.80 Cranbrook Subd.
- 122305 October 12 – Amending Order 121608 which authorized the C.P.R. to construct a third track across Abbott Street, City of Cranbrook, B.C. mileage 98.57 Cranbrook Subd.
- 122306 October 12 – Approving changes in the automatic protection at the crossing of C.N.R. and Westsyde Road, north of Kamloops, B.C. mileage 0.98 Ashcroft Subd.

- 122307 October 12 – Authorizing the R.M. of Fort Garry, Man. to construct a pedestrian walkway across the C.N.R. at Lee Boulevard, at mileage 3.76 Letellier Subd.
- 122308 October 13 – Approving changes in the signals on the C.N.R. between mileage 4.0 and 10.0 Edson Subd., Alta.
- 122309 October 13 – Approving tariffs and supplements to tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 122310 October 13 – Exempting the C.N.R. from section 53(1) of General Order E-14 provided no engines or trains clear the main track at the siding at mileage 11.68 Bala Subd., Ont.
- 122311 October 13 – Revoking authority of Order 69878 which approved the location of flammable liquid handling and storage facilities of McColl Frontenac Oil Company Limited at Richibucto, N.B., C.N.R.
- 122312 October 13 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and St. Francois Street in St. Pie, P.Q., mileage 16.59 St. Guillaume Subd.
- 122313 October 13 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Red Jacket, Sask. mileage 93.5 Broadview Subd.
- 122314 October 13 – Authorizing the C.P.R. to construct its Didsbury Westerly Branch Line across the 30 inch steel gas pipe line of the Alberta Gas Trunk Line Company Limited in the SE¼ of Sec. 28, Twp. 31, Rge. 3 W.5.M., Alta. mileage 10.20 of said branch line.
- 122315 October 13 – Authorizing the C.P.R. to relocate existing reflectorized crossing signs from a crossing of its railway and County Road No. 52 at mileage 30.13 St. Thomas Subd. to another crossing at mileage 0.14 of the spur which commences at mileage 27.3 Elora Subd., Ont.
- 122316 October 13 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Back Road in Halifax County, N.S. mileage 12.07 Chester Subd.
- 122317 October 13 – Authorizing the Quebec Central Railway Company to install automatic protection at the crossing of its railway and Cameron Road, (Vaillancourt Road), in the Parish of Ste-Marie, P.Q., mileage 108.89 Quebec Subd.
- 122318 October 13 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Hunt's Point Road in Queen's County, N.S. at mileage 8.41 Yarmouth Subd.

- 122319 October 13 – Authorizing the C.P.R. to improve automatic protection at the crossing of its railway and Highway No. 28, in Cookshire, P.Q., mileage 47.42 Megantic Subd. and mileage 0.18 Sawyerville Subd.
- 122320 October 13 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Neebing Avenue, between the City of Fort William and the Municipality of Neebing, Ont., mileage 0.56 Mission Spur off mileage 7.78 Kashabowie Subd.
- 122321 October 13 – Authorizing The Chesapeake and Ohio Railway Company to install reflectorized crossing signs at the crossing of its railway and the highway at mileage 0.80 Dresden Belt Line which commences at mileage 29.80 No. 2 Subd., Ont.
- 122322 October 13 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Tobique Road in Perth Junction, N.B. mileage 0.34 Tobique Subd.
- 122323 October 14 – Authorizing the C.N.R. to remove the caretaker at Wayne, Alta. mileage 60.4 Drumheller, Subd.
- 122324 October 14 – Amending Order No. 121851 which authorized the C.N.R. to remove the caretaker and the station building at Birch Island, B.C. mileage 6.16 Clearwater Subd.
- 122325 October 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 122326 October 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 122327 October 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of M.F.R.A.
- 122328 October 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 122329 October 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under Section 8 of the M.F.R.A.
- 122330 October 14 – Approving tariffs and supplements to tariffs filed by the D.A.R. under sections 3 and 8 of the M.F.R.A.
- 122331 October 14 – Approving tariffs and supplements to tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 122332 October 14 – Approving location of additional bulk storage and transfer facilities of Standard Oil Company of British Columbia, Limited, at Houston, B.C. near mileage 84.91 Telkwa Subd. C.N.R.

- *122333 October 14 – Postponing effective date of increased commutation fares filed by the C.P.R. and the D.A.R. and advising of a Public Hearing with respect to the increased fares, to be held in Montreal P.Q. (See page 1268, 56 B.T.C.)
- 122334 October 14 – Revoking Authority of Order No. 112661 which approved the location of the flammable liquid bulk storage and transfer facilities of Imperial Oil Limited, at Loreburn, Sask. near mileage 83.9 Outlook Subd. C.P.R.
- 122335 October 14 – Approving location of new office building and existing flammable liquid tank truck transfer facilities of Imperial Oil Limited, at Balgonie, Sask. near mileage 78.3 Indian Head Subd. C.P.R.
- 122336 October 17 – Authorizing the Town of Brampton, Ont., to construct a subway to carry Queen Street East across and under the C.N.R. mileage 15.05 Halton Subd. which will eliminate the existing crossing at grade, and authorizing the C.N.R. to construct a temporary diversion of their railway and authorizing the Town to construct a temporary detour of Queen Street to permit the construction of the Subway.
- 122337 October 17 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and St. Patrice Street, Barrington, P.Q., mileage 11.38 Valleyfield Subd.
- 122338 October 17 – Exempting the New York Central Railroad Company and The Lake Erie & Northern Railway Company from complying with the conditions contained in subsection 2 of section 156 of the Railway Act for the use of that portion of the trackage of The New York Central Railroad Company and The Lake Erie & Northern Railway Company in the vicinity of Waterford, Ontario a distance of 5,000 feet.
- 122339 October 17 – Recommending to the Governor in Council for the sanction of an agreement between The New York Central Railroad Company and The Lake Erie & Northern Railway Company for the use of that portion of the trackage of The New York Central Railroad Company in the vicinity of Waterford, Ont., a total distance of 5,000 feet.
- 122340 October 18 – Authorizing the C.N.R. to remove the caretaker and the station building at McIntyres Lake, N.S. mileage 19.4 Sydney Subd.
- 122341 October 18 – Authorizing the C.P.R. to remove the caretaker and the station building at Hillsburg, Ont., mileage 8.2 Elora Subd.

- 122342 October 18 – Authorizing the Ontario Department of Highways to construct Water Street across the C.N.R. at Allanburg, Township of Thorold, County of Welland, Ont. at mileage 2.29 Thorold Subd.
- 122343 October 18 – Revoking authority of Order 93135 which approved the loading of crude oil into tank cars from tank trucks near the tracks of the C.P.R. at Forget, Sask.
- 122344 October 18 – Revoking authority of Order 65538 which approved the location and handling and storage of flammable liquid facilities of C.P.R. at West Toronto, Ontario, mileage 5.38 Galt Subd.
- 122345 October 18 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Bulwer, P.Q., mileage 55.33 Megantic Subd.
- 122346 October 19 – Authorizing the C.N.R. in connection with the reconstruction and improvement of the subway carrying Trenton Street (Highway No. 33) across and under their railway in the Town of Trenton, Ont., at mileage 232.71 Kingston Subd., to eliminate their transfer track across Highway No. 33 at mileage 0.44 of track.
- 122347 October 19 – Authorizing the Town of Trenton, Ont. to reconstruct and improve the subway which carries Trenton Street (Highway No. 33) across and under the C.N.R. mileage 232.71 Kingston Subd.
- 122348 October 19 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122349 October 19 – Revoking authority of Order 62115 which approved the installation of handling and storage of flammable liquid facilities of Imperial Oil Limited at Lajord, Sask. C.P.R.
- 122350 October 19 – Authorizing the C.N.R. to operate their engines, cars and trains on the subway at mileage 129.0 Joliette Subd., P.Q.
- 122351 October 19 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.P.R. at Magog, P.Q. mileage 89.05 Sherbrooke Subd.
- 122352 October 19 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Highway No. 59, (first public crossing west of the station) at McWatters, P.Q. mileage 92.78 Val d'Or Subd.

- 122353 October 19 – Authorizing the Township of Bertie, Ont. to reconstruct and improve Shisler road at the crossing of the C.N.R. in Lot 10, between Conc. 8 & 9 N.R. at mileage 6.23 Cayuga Subd.
- 122354 October 19 – Allocating the cost of installation, maintenance and operation of the automatic protection at the crossing of the Northern Alberta Railways Company and 137th Ave., City of Edmonton, Alta. mileage 1.24 Edmonton Subd. reserved by Order 121026.
- 122355 October 20 – Authorizing the New Brunswick Department of Public Works to construct St. Leonard I.N.R. Overpass to carry the Trans-Canada Highway across and over the C.N.R. in the Parish of St. Leonard, County of Madawaska, mileage 105.17 St. Quentin Subd.
- 122356 October 20 – Authorizing the Ontario Department of Highways to construct an overhead bridge to carry Highway No. 2 across and over the C.N.R. at mileage 261.87 Kingston Subd. (formerly Oshawa Subd.) and the C.P.R. at mileage 132.82 Belleville Subd., east of Cobourg; allocating the cost of construction and maintenance of said overhead bridge; and approving temporary less than standard clearances on the C.N.R. and C.P.R. at said overhead bridge.
- 122357 October 20 – Authorizing the Township of West Zorra to improve Township Road at the crossing of the C.P.R. between Con. 6 & 7 opposite Lot 1, County of Oxford, Ont. mileage 92.22 Galt Subd.
- 122358 October 20 – Approving changes in automatic protection at the crossing of C.P.R. and Highway No. 7 (Lougheed Highway) at Deroche, B.C. mileage 75.45 Cascade Subd.
- 122359 October 20 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8 of the M.F.R.A.
- 122360 October 20 – Approving tariffs and supplements to tariffs filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 122361 October 20 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8 of the M.F.R.A.
- 122362 October 20 – Authorizing the City of Waterloo, Ontario to construct an overhead bridge to carry Weber Street North across the

- C.N.R. at mileage 4.33 Waterloo Subd. (Elmira Branch), eliminating level crossing at Albert Street, mileage 4.05 Waterloo Subd.
- 122363 October 20 – Authorizing the Town of Whitby, Ontario to reconstruct the overhead bridge carrying Henry Street across and over the C.N.R. mileage 305.23 Kingston Subd.
- 122364 November 29 – Approving changes in the automatic protection at the crossing of C.N.R. and Galloway Road, east of Guildwood, Twp. of Scarborough, Ont. mileage 320.95 Kingston Subd.
- 122365 October 20 – Amending Order 113656 which authorized the Alberta Department of Highways to construct Highway No. 3 across and over the C.P.R. by means of an overhead bridge in SE¼ Sec. 12, Twp. 8, Rge. 6 W5M, mileage 100.61 Crowsnest Subd.
- 122366 October 20 – Amending Order 116802 which authorized the M.D. Rocky View No. 44, Alta. to improve vision at the crossing of Municipal Road and the C.N.R. west of the NW¼ Sec. 34, Twp. 28, Rge. 25 W4M mileage 86.51 Three Hills Subd.
- 122367 October 21 – Authorizing the Quebec Department of Roads to widen 3rd Concession Road at the crossing of the C.N.R., Parish of St-Michel, mileage 97.23 Montmagny Subd.
- 122368 October 21 – Authorizing the City of Fort William, Ontario to construct a road diversion approximately 1,300 feet long south of the C.P.R. between Stanley Avenue and Mountain Avenue.
- 122369 October 21 – Authorizing the C.P.R. and the British Columbia Hydro and Power Authority to operate on the siding serving Globe Fertilizers Limited across Kent Ave. South, City of Vancouver commencing at mileage 2.45 Westminster Branch, Vancouver and Lulu Island Subd.
- 122370 October 21 – Authorizing the C.P.R. to close the crossing of its railway and Municipal Road in the M.D. of Kneehill No. 48, Alta. mileage 40.67 Langdon Subd.
- 122371 October 21 – Authorizing the C.P.R. to operate on the siding serving the Toronto Iron Works Limited, City of Toronto, Ont.
- 122372 October 21 – Amending Order 114706 which authorized the C.N.R. to relocate their trackage in the City of Belleville, Ont.
- 122373 October 21 – Amending Order 115086 which authorized the C.P.R. to install automatic protection in lieu of the existing protec-

tion at the crossing of its railway and Winnipeg St. City of Regina, Sask.

- 122374 October 21 – Authorizing the C.N.R. to operate over the trackage serving the ferry slip commencing at mileage 8.13 Lulu Island Subd. Municipality of Richmond, B.C.
- 122375 October 24 – Amending Order 119091 which authorized the City of Roberval P.Q. to construct a pedestrian subway across and under the C.N.R. mileage 11.82 Roberval Subd.
- 122376 October 24 – Approving tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under Sections 3 and 8 of the M.F.R.A.
- 122377 October 24 – Amending Order 98266 which authorized the Montreal Metropolitan Corporation to construct an overhead bridge replacing the existing level crossing at Cote de Liesse Road and the C.N.R. between the Town of Mount Royal and St. Laurent, P.Q. and apportioning the balance of cost of construction of said overhead bridge on the C.N.R. and the Montreal Metropolitan Corporation.
- 122378 October 24 – Authorizing the Quebec Department of Roads to improve the highway at the crossing of the C.P.R. in the Municipality of Adamsville, County of Brome, mileage 116.62 Sherbrooke Subd.
- 122379 October 24 – Authorizing The Toronto Harbour Commissioners to construct a siding to serve lands leased to Hide Trading (1965) Limited, on the west side of Cherry St., North of Polson St., City of Toronto, Ont.
- 122380 October 24 – Authorizing the M.D. of Bonnyville No. 87, Alta. to improve the vision where Municipal Road crosses the C.N.R., at mileage 36.01 Bonnyville Subd.
- 122381 October 24 – Authorizing the C.P.R. to close the crossing of its railway and Highway No. 12 in the SE¼ Sec. 5, Twp. 39, Rge. 20 W4M, Alta. mileage 62.63 Lacombe Subd.
- 122382 October 24 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Pond St. in the Town of Sydney Mines, N.S. mileage 96.08 Sydney Subd.
- 122383 October 24 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and 13th Ave., Town of Charny, P.Q. mileage 7.76 St. Romuald Subd.

- 122384 October 24 – Authorizing the removal of the speed limitation at the crossing of Northern Alberta Railways Company and the highway at mileage 176.89 Slave Lake Subd., Alta.
- 122385 October 24 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the first crossing west of the shelter at Curtis, Man. mileage 48.38 Rivers Subd.
- 122386 October 24 – Amending Order 98763 which authorized the Montreal Metropolitan Corporation to reconstruct the overhead bridge in the Town of Mount Royal, P.Q. mileage 4.5 Mount Royal Subd. of the C.N.R., and allocating the balance of the cost of reconstruction of said overhead bridge.
- 122387 October 24 – Authorizing the C.P.R. to remove the caretaker at Ensign, Alta. mileage 60.6 Aldersyde Subd.
- 122388 October 24 – Revoking authority of Order 67595 which approved the location of facilities of Imperial Oil Limited near the C.N.R. at Edberg, Alta.
- 122389 October 24 – Revoking authority of Order 77336 which approved location of handling and storage facilities of Imperial Oil Limited at Rabbit Lake, Sask. C.N.R.
- 122390 October 24 – Amending Order 121134 which authorized the City of Farnham, P.Q. to construct improve and maintain Dollard Street across the C.P.R., County of Missisquoi, mileage 0.41 Stanbridge Subd.
- 122391 October 25 – Authorizing the Highways Department of the Province of Manitoba to widen Provincial Road No. 462 where it crosses the C.N.R. at Glenella, mileage 3.64 Gladstone Subd.
- 122392 October 25 – Authorizing the Newfoundland Department of Highways to construct an access road across the C.N.R. at Octagon Pond, mileage 9.24 St. John's Subd.
- 122393 October 25 – Authorizing the C.N.R. to reconstruct their bridge crossing Kitto Creek, Ont. mileage 29.1 Fort Frances Subd.
- 122394 October 25 – Approving the changes to the automatic protection at the crossing of C.N.R. and Highway No. 20, at Nokomis, Sask. mileage 106.0 Watrous Subd.
- 122395 October 25 – Authorizing the Town of Smiths Falls, Ont. to reconstruct and improve the subway carrying Cornelia St. across and under the C.P.R., County of Lanark, mileage 0.32 Belleville Subd. and mileage 0.32 Chalk River Subd.

- 122396 October 25 – Authorizing the British Columbia Department of Highways to construct North Thompson Highway No. 5 across the C.N.R. mileage 94.3 Albreda Subd.
- 122397 October 25 – Revoking authority of Order 112629 which approved the location of flammable liquid bulk storage and transfer facilities of Husky Oil Canada Limited at Cheminis, Ont. near mileage 32 Kirkland Lake Subd.
- 122398 October 26 – Amending Order 121905 which authorized the C.N.R. to operate its engines and trains over the crossing at mileage 7.23 Ottawa Subd. (C.N.R.) and mileage 3.37 Prescott Subd. (C.P.R.) Ont.
- 122399 October 26 – Authorizing the C.P.R. to close the crossing of its railway and the Municipal Road between the NW¼ Sec. 21 and SW¼ Se. 28 Twp. 4 Rge. 26 W3M Sask., mileage 59.19 Altawan Subd.
- 122400 October 26 – Authorizing the C.P.R. to construct a branch line serving Falconbridge Nickel Mines Limited commencing at mileage 69.2 Cartier Subd. across the public road in Lot 12, between Concessions 1 and 6, Twp. of Dryden, District of Sudbury, Ont. mileage 3.28 and Clifford Street in Lot 11, Concession 2, mileage 5.45.
- 122401 October 26 – Approving changes to automatic protection at the crossing of C.P.R. and Highway No. 5 near Humboldt, Sask. mileage 27.23 Prince Albert Subd.
- 122402 October 26 – Authorizing the City of Dorval, P.Q. to construct Andre Avenue across the C.N.R. mileage 2.69 Doney Spur H.B. at mileage 1.83 Montfort Subd.
- 122403 October 26 – Revoking authority of Order 76099 which approved location and handling of storage facilities of North Star Oil Limited at Manitou, Man. C.P.R.
- 122404 October 24 – Revoking authority of Order 84998 which was amended by Order 87616, approving site of loading crude oil into tank cars from tank-trucks of Union Oil Company of California at Hays, Alta. C.P.R.
- 122405 October 26 – Amending Order 107588 which authorized reconstruction and improvement of the overhead bridge carrying Victoria Ave. across and over the C.N.R., City of Niagara Falls, Ont. mileage 1.1 Grimsby Subd.

- 122406 October 26 – Approving location of flammable liquid bulk storage and transfer facilities of Shell Canada Limited at Virden, Man. near mileage 47.23 Broadview Subd. C.P.R.
- 122407 October 26 – Approving location of Ammonium Nitrate storage facilities of Federated Co-Operatives Limited at Killam, Alta. near mileage 25.8 Wetaskiwin Subd. C.P.R.
- 122408 October 26 – Authorizing the installation of automatic protection at the crossing of the C.N.R. and Windermere Ave. R.M. of Fort Garry, Man. mileage 0.45 Letellier Subd.
- 122409 October 26 – Authorizing the Ontario Department of Highways to widen and improve Highway No. 94 at the crossing of the C.P.R. at Corbeil, Ont. mileage 107.6 North Bay Subd.
- 122410 October 26 – Revoking authority of Order 69887 which approved the location of handling and storage facilities of Canadian Oil Companies Limited near the C.P.R. at Arborg, Man.
- 122411 October 26 – Authorizing the C.P.R. to install automatic protection of the crossing of its railway and East Angus Road, Township of Bury, P.Q. mileage 41.63 Megantic Subd.
- 122412 October 27 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Kimberly Avenue, City of East Kildonan, Man. mileage 1.60 Lac du Bonnet Subd.
- 122413 October 27 – Approving location of tank car unloading rack of Imperial Oil Limited at Viscount, Sask. near mileage 65.10 Sutherland Subd. C.P.R.
- 122414 October 27 – Authorizing the County of Smoky Lake No. 13, Alta. to widen the county road at the crossing of the C.N.R. between the NE¼ Sec. 8 and NW¼ Sec. 9, Twp. 59, Rge. 19 W4M mileage 49.50 Coronado Subd.
- 122415 October 27 – Approving tariffs and supplements to tariffs filed by the Canadian Freight Association under Sections 3 and 8 of the M.F.R.A.
- 122416 October 27 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and MacKenzie, Cambria and Dufferin Streets, City of Stratford, Ont. mileage 0.37; 0.38 and 0.41 Thorndale Subd., respectively.
- 122417 October 27 – Extending the time within which the New York Central is required to install automatic protection at the crossing of its railway and Essex County Road No. 20, between the Townships of Colchester North and the Township of Maidstone, Ont. mileage 211.04 Main Line Subd.

- 122418 October 27 – Approving tariffs and supplements to tariffs filed by the C.P.R. under Section 8 of the M.F.R.A.
- 122419 October 27 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Whitton Road, Township of Hope, P.Q. mileage 5.23 Chandler Subd.
- 122420 October 27 – Authorizing the County of Camrose No. 22, Alta. to widen and improve county road at the crossing of the C.N.R. between Sects. 11 and 14, Twp. 45, Rge. 21, W4M mileage 62.84 Camrose Subd.
- 122421 October 27 – Amending Order 120414 respecting signboards and the markings of such signboards with reflective material, at certain crossings of the C.N.R. in P.Q.
- 122422 October 27 – Authorizing the Town of Coaldale, Alta. to construct and maintain 18th Avenue across the C.P.R. in the SE $\frac{1}{4}$, Sec. 14, Twp. 9, Rge. 20 W4M at mileage 97.84 Taber Subd.
- 122423 October 28 – Authorizing the Ontario Department of Highways to improve Highway No. 20 at the crossing of the C.N.R. between Lots 94 and 117, Twp. of Thorold, County of Welland, mileage 2.70 Thorold Subd.
- 122424 October 28 – Approving location of proposed new office building to be erected at the flammable liquid bulk marketing plant of Imperial Oil Limited at Rosthern, Sask. near mileage 26.79 Duck Lake Subd. C.N.R.
- 122425 October 28 – Approving location of proposed new 12' $\times$ 20' office building of Imperial Oil Limited at Radisson, Sask. near mileage 38.52 Langham Subd. C.N.R.
- 122426 October 28 – Authorizing the Saskatchewan Department of Highways and Transportation to widen Highway No. 49 at the crossing of the C.N.R. between the SW $\frac{1}{4}$, Sec. 14 and the NE $\frac{1}{4}$ Sec. 11, Twp. 35, Rge. 8 W2M, mileage 90.12 Preeceville Subd.
- 122427 October 28 – Amending Order 121911 which authorized the Quebec Department of Roads to construct an overhead bridge carrying an access road across and over the C.N.R., City of Montreal, P.Q. mile 5.83 Montreal Subd.
- 122428 October 28 – Relieving the C.P.R. from erecting and maintaining fences between certain mileages on its Glenboro Subd. Man.

- 122429 October 28 – Approving the temporary deviation of the C.N.R. on their Gladstone Subd. from mileage 3.22 to 4.98, Man.
- 122430 October 28 – Approving location of 1,000 Imperial gallon flammable liquid storage tank of Imperial Oil Limited at Togo, Sask. near mileage 79.65 Togo Subd. C.N.R.
- 122431 October 28 – Authorizing the City of Kitchener, Ont. to widen Bleams Road where it crosses the Huron Park Industrial Spur of the C.N.R. at mileage 0.48 which leads from the Galt Branch of the Waterloo Subd. at mileage 3.96.
- *122432 October 28 – Relieving the C.N.R. from the Statutory speed restriction imposed by Section 312 of the Railway Act as a result of an Accident on October 7, 1966 at the crossing of their railway and St. Charles Street in Dorion, P.Q., mileage 24.64 Kingston Subd., in respect of a test train, pending a public inquiry into the accident. (See page 1272, 56 B.T.C.)
- 122433 October 31 – Authorizing the C.N.R. to construct a pedestrian subway under their railway at Clarkson, Twp. of Toronto, County of Peel, Ont. at mileage 16.63 Oakville Subd.
- 122434 October 31 – Authorizing the C.P.R. to operate their engines, cars and trains on the private siding serving Liquid Carbonic Canadian Corporation Limited crossing Barnard Street, City of Vancouver, B.C. mileage 5.8 Marpole Branch of the V. & L.I. Rly.
- 122435 October 31 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and St. Isidore Station Road, St. Isidore, P.Q. mileage 68.47 Massena Subd.
- 122436 October 31 – Authorizing the Ontario Department of Highways to reconstruct Highway No. 94 at the crossing of the C.N.R. in Lot 27, Con. 10, Twp. of East Ferris, Dist. of Nipissing, mileage 53.7 Alderdale Subd.
- 122437 October 31 – Approving existing flammable liquid truck loading facilities and proposed new storage and unloading facilities of Imperial Oil Limited at Champion, Alta. near mileage 38.1 Aldersyde Subd. C.P.R.
- 122438 October 31 – Approving location of proposed new 12 x 28 ft office building and additional flammable liquid bulk storage facilities of Imperial Oil Limited at Bow Island, Alta. near mileage 41.0 Taber Subd. C.P.R.

122439 October 31 — Approving location of additional storage tank and associated piping of Imperial Oil Limited at Acadia Valley, Alta. near mileage 23.6 Acadia Valley Subd. C.N.R.

Canada
**The Board of
Transport Commissioners for Canada**

Judgments, Orders, Regulations and Rulings

ORDER NO. 122540

**TUESDAY, THE 8TH DAY OF
NOVEMBER, A.D. 1966**

J.E. DUMONTIER,
Deputy Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Freight Asso-
ciation under section 325 of the
Railway Act, for approval of proposed
Canadian Freight Classification No.
22, Agent W.P. Coughlin's C.T.C(F)
No. 1740:*

File No. 49281

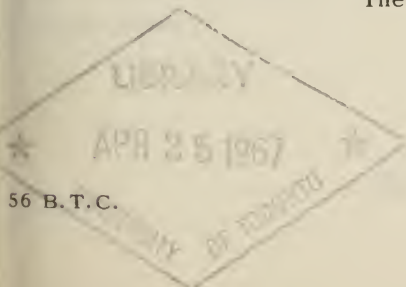
WHEREAS proposed Canadian Freight Classification No. 22 has been filed with the Board and that such proposed Classification contains, without change, matter presently published in Classification No. 21 and supplements thereto;

IT IS HEREBY ORDERED AS FOLLOWS:

1. Pursuant to Section 325 of the Railway Act, Canadian Freight Classification No. 22, Agent W.P. Coughlin's C.T.C(F) No. 1740, to govern tariffs of tolls for freight traffic, is approved.

2. That in all respects the said Classification shall be subject to complaint and investigation in accordance with the provisions of the Railway Act and the Board's Rules of Practice.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.



ORDER NO. 122602

WEDNESDAY, THE 16TH DAY OF
NOVEMBER, A.D. 1966

H. H. GRIFFIN,
Asst. Chief Commissioner.
W. R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian Freight Association under Part III of General Order No. T-1. for approval of Supplement No. 1 to Canadian Freight Classification No. 22, C.T.C. (F) No. 1740, on file with the Board under file No. 49281.1:

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 1 to Canadian Freight Classification No. 22, C.T.C. (F) No. 1740, on file with the Board under file No. 49281.1, is approved.

(SGD) H. H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122605

THURSDAY, THE 17TH DAY OF
NOVEMBER, A.D. 1966

H.H. GRIFFIN,
Asst. Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian Freight Association, under Section 353 of the Railway Act, for authority to publish a rate of \$3.76 per 100 pounds on Glass-Ceramicware, cooking or serving, and Glass-Ceramicware, equipped with electric heating units, candles, covers, handles, metal or synthetic resin fixtures, serving baskets or table-type holders or stands, at carload minimum weight of 40,000 pounds, subject to a released valuation not exceeding thirty-five cents per pound from Toronto, Ont. to British Columbia Group 1 destinations in Canadian Freight Association Tariff 1-T, C.T.C. (F) 1734:

File No. 40615

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian Freight Association is authorized to publish a rate of Three Dollars and seventy-six cents (\$3.76) per 100 pounds, carload minimum weight 40,000 pounds, in its Tariff 1-T, C.T.C. (F) 1734, not subject to increase authorized in Supplement 2 of such tariff, on Glass-Ceramicware, cooking or serving, and Glass-Ceramicware equipped with electric heating units, candles, covers, handles, metal or synthetic resin fixtures, serving baskets or table-type holders or stands, from Toronto, Ont., to British Columbia Group 1 destinations in the said tariff, subject to a released valuation not exceeding thirty-five cents (35¢) per pound.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122609

THURSDAY, THE 17TH DAY OF
NOVEMBER, A.D. 1966

H.H. GRIFFIN,
Asst. Chief Commissioner.
W.R. IRWIN,
Commissioner.

*IN THE MATTER OF General
Order No. E-6 - Protective devices
at highway crossings at grade:
specifications for installation and
testing of:*

File No. 27214.20

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

Section 4 of Part I of the said General Order No. E-6 is amended by deleting the figure "45" in line two of the said section and substituting therefor the figure 50.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122674

WEDNESDAY, THE 23RD DAY OF
NOVEMBER, A.D. 1966

IN THE MATTER OF *Vote 84a of
the Supplementary Estimates (A)*
1966-67:

ROD. KERR, Q.C.,
Chief Commissioner.
J.E. DUMONTIER,
Deputy Chief Commissioner.

File No. 48771.3

WHEREAS *Vote No. 84a of the Supplementary Estimates (A)* for the fiscal year ending March 31, 1967, is as follows:

Vote 84a — To provide for balance of payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada in respect of the period April 1, 1965, to March 31, 1966, payable to said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by the said Order.....\$600,000

AND WHEREAS the Board advised said companies, by letter dated June 23, 1966, that the deadline for receipt of claims for the period ended March 31, 1966, was July 31, 1966.

AND WHEREAS the deadline has now passed and the Board has determined that the total balance of claims of said companies for the period ended March 31, 1966, is \$555,958.15.

AND WHEREAS seven-twelfths of the said vote was authorized for payment by Appropriation Act No. 7, 1966, and pro rata payments in the amount of \$349,992.00 were made in accordance with Board Order No. 121541 dated August 2, 1966.

AND WHEREAS a further one-twelfth of the said vote has been authorized for payment by Appropriation Act No. 8, 1966.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

Further payments in respect of claims for the period ending March 31, 1966, shall now be made to the companies and in the amounts set out hereunder:

	<u>Amount of Payment</u>
(1) Canadian Pacific Railway Company	\$28,910.00
(2) Canadian National Railways	17,259.00
(3) Northern Alberta Railways	1,506.00
(4) Algoma Central Railway Company	697.00
(5) Midland Railway Company of Manitoba	524.00
(6) Toronto, Hamilton and Buffalo Railway Company	398.00
(7) Chesapeake & Ohio Railway Company	290.00
(8) New York Central System	260.00
(9) Canada and Gulf Terminal Railway	99.00
(10) Great Northern Railway Company	41.00
(11) Napierville Junction Railway Company	14.00
	<u>\$49,998.00</u>

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122693

WEDNESDAY, THE 23RD DAY OF
NOVEMBER, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

*IN THE MATTER OF Order No.
56197, dated July 20, 1938, approv-
ing the uniform regulations of the
Railway Association of Canada
governing the fumigation of passen-
ger carrying equipment:*

File No. 1708.3

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

Order No. 56197, dated July 20, 1938, is rescinded.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122745

MONDAY, THE 28TH DAY OF
NOVEMBER, A.D. 1966

ROD. KERR, Q.C.,

Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner,

A.S. KIRK,

Commissioner.

*IN THE MATTER OF increased
commutation fares filed with the
Board by the Canadian Pacific
Railway Company and the Dominion
Atlantic Railway Company to become
effective on September 17, 1966;*

*AND IN THE MATTER OF Order
No. 122011, dated September 13,
1966, and Order No. 122333, dated
October 14, 1966, whereby the effec-
tive date of Canadian Pacific Rail-
way Company Tariffs C.T.C. Nos.
96 and 97, and the Dominion Atlantic
Railway Company Tariff C.T.C.
No. 1458 were postponed until
October 17, 1966, and November 30,
1966:*

File No. 29984.18.1

WHEREAS a public hearing was held at Westmount, Quebec, on November 15th and 16th, 1966, in the above matter;

AND WHEREAS at the hearing requests were made by the parties opposing the proposed fare increase for leave to file with the Board written arguments;

AND WHEREAS Counsel for Canadian Pacific Railway Company asked for leave to file written replies to the said written arguments;

AND WHEREAS the Board at the hearing granted leave to file written arguments and replies;

IT IS HEREBY ORDERED AS FOLLOWS:

- (a) Canadian Pacific Railway Company Tariff C.T.C. No. 96;
 - (b) Canadian Pacific Railway Company Tariff C.T.C. No. 97; and
 - (c) The Dominion Atlantic Railway Company Tariff C.T.C. No. 1458;
- are suspended pending determination of the matter.

(SGD) ROD. KERR,

Chief Commissioner,

The Board of Transport Commissioners for Canada.

56 B.T.C.

ORDER NO. 122800

WEDNESDAY, THE 30TH DAY OF
NOVEMBER, A.D. 1966

ROD. KERR, Q.C.,
Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF Vote 84c
of the Supplementary Estimates (C)
1966-67, and Appropriation Act No.
9, 1966:

File No. 48771.3

WHEREAS Vote No. 84c of the Supplementary Estimates (C) for the fiscal year ending March 31, 1967, is as follows:

Vote 84c – To provide payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada of an aggregate amount not exceeding \$20,000,000 in respect of the period April 1, 1966 to March 31, 1967, to be paid in instalments at such times as may be determined by the said Board for the purpose of reimbursing the said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by the said Order; to provide payments to the said companies of an aggregate amount in respect of the calendar year 1966 of \$50,000,000 to be paid in instalments at such times and in accordance with such methods of allocation as may be determined by the said Board for the maintenance by such companies of the rates of freight traffic at the said reduced level; and to provide for additional payments to the said companies for the years 1964, 1965 and 1966 in an aggregate amount of \$48,750,000 to be paid in instalments at such times and in accordance with such methods of allocation as may be determined by the said Board for the maintenance by such companies of the rates of freight traffic at said reduced level during such period\$118,750,000

AND WHEREAS the said Vote was authorized for payment by Appropriation Act No. 9, 1966;

AND WHEREAS, in respect of the said \$20,000,000 authorized for payment by Appropriation Act No. 9, 1966, the Board considers that the method of claiming by companies subject to Board Order No. 96300 and the payment of claims and the making of interim payments should be in accordance with the methods of claiming and making payments which were in effect in respect of the Freight Rates Reduction Act and subsequent appropriations.

AND WHEREAS, in respect of the said \$50,000,000 authorized for payment by Appropriation Act No. 9, 1966, the Board considers that in determining the method of allocation and the times of payment of instalments it should have regard to the freight traffic carried by the said companies at the said reduced level of rates based on an 8% increase instead of 17% as authorized by Board Order No. 96300 and also, because of the time lag in obtaining particulars of such traffic carried during the calendar year 1966 and other circumstances, that instalment payments should be based on similar traffic carried during part of 1965 and in 1966 with such adjustment as may be necessary to provide for total payment in accordance with the method of allocation determined by the Board and hereinafter set forth.

AND WHEREAS, in respect of the said \$48,750,000 authorized for payment by Appropriation Act No. 9, 1966, the Board considers that in determining the method of allocation and the times of payment of instalments it should have regard to the freight traffic carried by the said companies at the said reduced level of rates based on an 8% increase instead of 17% as authorized by Board Order No. 96300 and the allocation of \$50,000,000 in respect of the calendar years 1964, 1965 and 1966, and also because of the time lag in obtaining particulars of such traffic carried during the calendar year 1966 and other circumstances, that instalment payments in respect of 1966 should be based on similar traffic carried during part of 1965 and in 1966, with such adjustment as may be necessary to provide for total payments in accordance with the method of allocation determined by the Board and hereinafter set forth.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

1. Companies claiming reimbursement for diminution in their aggregate gross revenues attributable to maintaining the rate level for freight traffic at an 8% increase instead of 17% authorized by Board Order No. 96300 in respect of the period April 1, 1966 to March 31, 1967, shall submit claims in the forms hereinbefore ordered by the Board for the submission of claims in respect of the Freight Rates Reduction Act and subsequent appropriations.
2. Companies entitled to claim reimbursement under the immediately preceding paragraph numbered 1 may, prior to filing such claim, apply to the Board for an interim payment; companies will submit with such application an estimate of the claim for a particular month as soon as possible after the close of such month and the Board will thereupon determine the amount of the interim payment in respect of traffic carried during that month.
3. Companies submitting a claim for a month in respect of which an interim payment has been received will show the total claim for that month in accordance with past practice less a final deduction in the amount of any interim payment received in respect of that month.

4. Subject to paragraph 5 the method of allocation of the said \$50,000,000 pursuant to Appropriation Act No. 9, 1966, to companies subject to Order No. 96300 shall be the allocation to each company of an amount that bears approximately the same relation to the total amount payable to all companies under the said Appropriation Act as the amount paid to the company in respect of reimbursement claims for diminution in aggregate gross revenues attributable to such company maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by Board Order No. 96300 during the calendar year 1966 bears to the total amount paid to all companies in respect of such claims for the same period.

5. After deducting from the said \$50,000,000 the amount payable therefrom to companies other than Canadian National Railways and Canadian Pacific Railway Company in accordance with paragraph 4, the remainder shall be allocated 60% to Canadian National Railways and 40% to Canadian Pacific Railway Company.

6. The Board shall make instalment payments out of the said \$50,000,000 based on traffic carried during part of 1965 and in 1966, with such adjustment and deferment of payments as the Board deems necessary to insure that the total amount payable shall be allocated in accordance with the method set forth in paragraphs 4 and 5.

7. The allocation of \$6,000,000 of the said \$48,750,000 shall be based on traffic carried during the calendar year 1964 in accordance with paragraphs 1 and 2 of Board Order No. 120562, dated April 21, 1966.

8. The allocation of \$12,750,000 of the said \$48,750,000 shall be based on traffic carried during the calendar year 1965 in accordance with paragraphs 3 and 4 of Board Order No. 120562, dated April 21, 1966.

9. The allocation of \$30,000,000 of the said \$48,750,000 shall be based on traffic carried during the calendar year 1966 with provision for instalment payments as provided in paragraphs 4, 5 and 6 of this Order.

10. The Board may make any amendments of this Order that it deems necessary in order to equitably allocate the amount authorized for payment under the said Appropriation Act.

(SGD) ROD. KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, SEPTEMBER, 1966

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents.....	266	16	315
Level Crossing Accidents.....	<u>29</u>	<u>15</u>	<u>23</u>
	<u>295</u>	<u>31</u>	<u>338</u>

	<u>Killed</u>	<u>Injured</u>
Passengers.....	—	81
Employees.....	4	217
Others.....	<u>27</u>	<u>40</u>
	<u>31</u>	<u>338</u>

Of the 29 accidents at Highway Crossings, 24 occurred where standard railway crossing signs are located, 5 where additional forms of protection are in use, 16 after Sunrise and 13 after Sunset.

Ottawa, Ont.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 122440 November 1 — Authorizing the C.P.R. to operate its engines, cars and trains at speeds up to fifty miles per hour over the diamond crossing at mileage 105.6 Carberry Subd. (C.P.R.) and mileage 3.97 Carberry Subd. (C.N.R.), Man.
- 122441 November 1 — Authorizing the C.N.R. to operate their engines, cars and trains on the siding serving Shell Canada Limited, at crossing of 106th St., Town of Hay River, N.W.T. mileage 376.75 Great Slave Lake Rly.
- 122442 November 1 — Authorizing the C.N.R. to construct a siding across the highway in the City of Lloydminster, Alta. mileage 85.02 Blackfoot Subd. to serve Husky Oil Canada Ltd.
- 122443 November 1 — Authorizing the C.N.R. to construct an extension to their bridge at Lakeview, Ont. mileage 11.8 Oakville Subd.
- 122444 November 1 — Authorizing the Saskatchewan Department of Highways and Transportation to reconstruct Highway No. 9 across the track of the C.P.R. between the NE $\frac{1}{4}$, Sec. 7, and NW $\frac{1}{4}$ Sec. 8, Twp. 8, Rge. 2, W2M, mileage 85.88 Arcola Subd.
- 122445 November 1 — Authorizing the Highways Department of the Province of Manitoba to reconstruct Provincial Road No. 424 at the crossing of the C.N.R. bet. Lots 22 and 23, Parish of St. François Xavier, Mun. of Cartier, Man. mileage 18.44 Rivers Subd.
- 122446 November 1 — Authorizing the Alberta Department of Highways to widen the highway at the crossing of the C.N.R. in the vicinity of MacKay, Alta. mileage 92.26 Edson Subd.
- 122447 November 1 — Authorizing the Trans-Canada Pipe Lines Limited to construct and maintain a 24-inch steel natural gas pipe line across and under the track of the C.N.R. in Lot 54, Con. 1, Twp. of Markham, Ont. mileage 23.28 Bala Subd.
- 122448 November 1 — Authorizing the C.P.R. to construct a diamond crossing of its branch line serving Falconbridge Nickel Mines and the slag track at mileage 6.42 of the Falconbridge branch line, Ont.
- 122449 November 1 — Authorizing the C.N.R. to operate over the temporary deviation of their railway in the Mun. of St. Bruno-de-Montarville, County of Chambly, P.Q. in the vicinity of mileage 63.56 St. Hyacinthe Subd.

- 122450 November 2 – Authorizing the Township of North York, Ontario to construct a pedestrian walkway across the C.N.R. to connect Talwood Drive and Langbourne Place, mileage 0.8 Leaside Branch, Bala Subd.
- 122451 November 2 – Authorizing the Trans-Canada Pipe Lines Limited to construct a 24 inch natural gas pipeline across and under the C.N.R. in Lot 29, Con. 4, Twp. of Vaughan, Ont. mileage 20.34 Newmarket Subd.
- 122452 November 2 – Authorizing the C.P.R. to close the existing crossing of its railway and the municipal road at mileage 76.34 Maple Creek Subd., Sask.
- 122453 November 2 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway near Venn, Sask. mileage 122.27 Watrous Subd.
- 122454 November 2 – Assessing the cost of maintenance of the crossing of the C.N.R. and Highway No. 11 in Lot 1, Con. 5, Twp. of Calder, Ont. mileage 11.75 Kapuskasing Subd.
- 122455 November 2 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway in the Rural Mun. of Portage la Prairie, Man. mileage 49.65 Rivers Subd.
- 122456 November 2 – Authorizing the C.P.R. to operate its engines, cars and trains over the relocated portion of its Boundary Subd. bet. mile 30.0 and 33.5, Province of B.C.
- 122457 November 2 – Authorizing Imperial Oil Enterprises Limited to construct and maintain a 6 inch to 8 inch waste water disposal pipeline along and across and under the track of The Chesapeake & Ohio Railway Company, Twp. of Moore, County of Lambton, Ont.
- 122458 November 2 – Approving tariffs filed by The British Columbia Telephone Company.
- 122459 November 2 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 122460 November 2 – Authorizing the Consumers' Gas Company to construct a 2 inch gas pipe line across and under the C.P.R. on Liberty Street, City of Toronto, Ont., mileage 0.42 Liberty Street Spur.
- 122461 November 3 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and the Chatham Suburban Roads Commission Road No. 27, in Chatham, Ont. mileage 63.86 Chatham Subd.

- 122462 November 3 – Authorizing the Trans Mountain Oil Pipe Line Company to remove a 20 inch oil loading line and a 4 inch oil return line, and to construct two 10 inch cooling lines across and under the C.P.R. in the Mun. of Burnaby, B.C. mileage 121.16 Cascade Subd.
- 122463 November 3 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Midhurst, Ontario, mileage 65.62 MacTier Subd.
- 122464 November 3 – Authorizing the Interprovincial Pipe Line Company to make changes to the 24 inch crude oil pipe line crossing the C.N.R. in the NW¼ of Sec. 32, Twp. 17, Rge. 19 W2M, Sask. mileage 91.4 Qu'Appelle Subd.
- 122465 November 3 – Exempting the C.N.R. from erecting fences between mileage 0.02 and 1.88, East side and from mileage 0.07 to 1.88 West side, on the spur commencing at mileage 59.32 Beachburg Subd., P.Q.
- 122466 November 3 – Assessing the cost of operation and maintenance of the automatic protection at the crossing of the C.P.R. and Lesperance Road (County Road No. 7), between the Town of Tecumseh and King's Highway No. 2, Ont. mileage 102.88 Windsor Subd.
- 122467 November 3 – Authorizing the C.N.R. to operate their engines, cars and trains on the temporary track diversion, in the vicinity of mileage 1.26 Bridge Subd., P.Q.
- 122468 November 3 – Authorizing the C.N.R. to operate their engines, cars and trains over the temporary track diversion in the vicinity of mileage 4.99 St. Romuald Subd., P.Q.
- 122469 November 3 – Authorizing the C.N.R. to operate their engines, cars and trains over the subways crossing T.C.H., Hochelaga Interchange and Boucherville Street, City of Montreal, P.Q. at mileage 6.59, 6.60, 6.66, 6.68 and 6.79 Longue Pointe Subd.
- 122470 November 4 – Authorizing the Town of Didsbury, Alta. to construct the highway at the crossing of the C.P.R. along the north boundary of Sec. 7, Twp. 31, Rge. 1, W5M mileage 45.6 Red Deer Subd.
- 122471 November 4 – Authorizing the C.P.R. to operate through the interlocking at the crossing of its railway at mileage 81.4 White River Subd. and the Algoma Central Railway at mileage 194.9 Northern Subd., Franz, Ont.

- 122472 November 4 – Authorizing the Village of Brighton, Ontario to widen Prince Edward Street at the crossing of the C.P.R. at mileage 112.29 Belleville Subd. and the C.N.R. at mileage 241.59 Kingston Subd.
- 122473 November 4 – Approving location of the flammable liquid bulk storage and transfer facilities of British American Oil Company Limited at High Level, Alta. near mileage 182.43 Great Slave Lake Railway. (C.N.R.)
- 122474 November 4 – Dismissing application of the C.N.R. for authority to remove the station agent at Princeton, Nfld.
- 122475 November 4 – Authorizing the C.P.R. to replace the bridges on the main line of its railway wye track with a culvert and fill, at Windsor N.S. mileage 0.18 Truro Subd. (D.A.R.)
- 122476 November 4 – Authorizing the C.P.R. to operate its engines, cars and trains over the siding serving the T. Eaton Company of Canada Limited across Saskatchewan Avenue, City of St. James, Man.
- 122477 November 4 – Amending Order 117829 which authorized the Quebec Department of Roads to reconstruct Courville Hill Road at the crossing of the C.N.R. in the Town of Montmorency, County of Quebec, mileage 5.77 Murray Bay Subd.
- 122478 November 4 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at mileage 240.06 Wainwright Subd., Alta.
- 122479 November 4 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Highway No. 36 at Viking, Alta. mileage 184.82 Wainwright Subd.
- 122480 November 4 – Authorizing the Alberta Department of Highways to construct the highway at grade across the C.P.R. between the NW¼ Sec. 7, Twp. 13, Rge. 11, W4M, and the NE¼ Sec. 12, Twp. 13, Rge. 12, W4M at mileage 18.05 Suffield Subd.
- 122481 November 4 – Authorizing The Chesapeake & Ohio Railway Company to construct a 16 inch six hundred lb. pressure steam line across and over its tracks in the City of Sarnia, Ont. mileage 70.11 No. 2 Subd. (Polymer Corporation Limited)
- 122482 November 7 – Dismissing application of C.P.R. to remove the station agent and appoint a caretaker at Coderre, Sask. mileage 40.0 Shamrock Subd.

- 122483 November 7 - Extending the time limit in which C.P.R. is required to install automatic protection at the crossing of its railway and the township road, Township of Zone, County of Kent, Ont. mileage 49.09 Windsor Subd.
- 122484 November 7 - Authorizing the C.N.R. to install automatic protection at the crossing of their railway and William Wile Road in Lunenburg County, N.S. mileage 81.50 Chester Subd.
- 122485 November 7 - Authorizing the City of Sarnia, Ontario to widen Exmouth Street at the crossing of the C.N.R. mileage 2.40 Point Edward Spur.
- 122486 November 7 - Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Llewellyn Road in Lunenburg County, N.S. mileage 93.32 Chester Subd.
- 122487 November 7 - Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Road No. 109 at Reid's Crossing, N.B., mileage 21.90 Tobique Subd.
- 122488 November 7 - Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Chemin Grande Ligne, Mun. of Grantham Ouest, P.Q. mileage 56.27 Drummondville Subd.
- 122489 November 7 - Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Fulton Avenue at Nashwaaksis, N.B. mileage 56.78 Gibson Subd.
- 122490 November 7 - Approving tariffs filed by the Canadian National Telecommunications.
- 122491 November 7 - Approving location of Ammonium Nitrate storage facilities of National Grain Company Limited at Holbain, Sask. near mileage 20.37 Blaine Lake Subd. C.N.R.
- 122492 November 7 - Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 41.19 Val d'Or Subd., P.Q.
- 122493 November 7 - Amending Order 119301 which authorized the Township of Darlington, Ont. to reconstruct Township Road No. 10 at the crossing of the C.P.R. between Lots 20 and 21, Con. 1, mileage 166.55 Belleville Subd.
- 122494 November 7 - Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 5.50 Val d'Or Subd., P.Q.

- 122495 November 7 – Approving changes to the automatic protection at the crossing of C.P.R. and Broadway Street, at Douglas, Man. mileage 121.8 Carberry Subd.
- 122496 November 7 – Authorizing the C.P.R. to remove the caretaker and close the station at Fabre, P.Q. mileage 88.8 Temiscamingue Subd.
- 122497 November 7 – Authorizing the Great Northern Railway Company to install automatic protection at the crossing of its railway and Kaslo Street in Vancouver, B.C. mileage 153.82 Third Subd.
- 122498 November 7 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Royal Road at Nashwaak-sis, N.B. mileage 56.06 Gibson Subd.
- 122499 November 7 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and highway at mileage 31.98 Val d'Or Subd., P.Q.
- 122500 November 7 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Fraserwood, Man. mileage 55.75 Arborg Subd.
- 122501 November 7 – Authorizing the C.P.R. to install reflectorized crossing signs at the crossing of its railway and the highway at mileage 0.16 Coronet Lead which junctions with the Willingdon Subd. at mileage 172.68, Alta.
- 122502 November 7 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway interchange tracks and 104th Ave. in the City of Edmonton, Alta.
- 122503 November 7 – Authorizing the M.C. of Bristol, P.Q. to improve the crossing of municipal road and the C.P.R., mileage 36.10 Waltham Subd.
- 122504 November 7 – Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at the crossing of their railways at mileage 33.29 Qu'Appelle Subd. (C.N.R.) and mileage 25.7 Bulyea Subd. (C.P.R.), Sask.
- 122505 November 7 – Authorizing the C.N.R. to relocate the crossing of their railway from mileage 88.60 Drummondville Subd. to mileage 21.01 West Shefford Subd., P.Q.
- 122506 November 8 – Authorizing the C.N.R. to operate over the pedestrian subway in the Village of Birch Cove, County of Halifax N.S. at mileage 6.94 Bedford Subd.

- 122507 November 8 — Authorizing the C.N.R. to operate on the bridge at mileage 69.0 Skeena Subd. B.C.
- 122508 November 8 — Approving Supplement No. 4 to Traffic agreement between The Bell Telephone Company of Canada and Le Téléphone de Stoke (1963) Inc.
- 122509 November 8 — Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone de Stoke (1963) inc.
- 122510 November 8 — Approving Revised Appendix "A" and Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and Téléphone Milot Inc.
- 122511 November 8 — Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Cie de Téléphone Rurale de St. Joseph de Kamouraska.
- 122512 November 8 — Approving Supplement No. 11 to Traffic Agreement between The Bell Telephone Company of Canada and The Port Hope Telephone Company Limited.
- 122513 November 8 — Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Courcelles Inc.
- 122514 November 8 — Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone Locale de Stratford.
- 122515 November 8 — Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Coopérative de Téléphone de Stornoway.
- 122516 November 8 — Approving Appendix "A" and Supplements Nos. 3 and 4 to Traffic Agreement between The Bell Telephone Company of Canada and Téléphone Princeville Limitée.
- 122517 November 8 — Approving Revised Appendix "A" and Supplements Nos. 4 and 5, between The Bell Telephone Company of Canada and Le Téléphone Guevremont Inc.
- 122518 November 8 — Authorizing the C.N.R. to relocate the reflectorized crossing signs from the crossings of the main line and siding tracks of their railway and the highway at mileage 1.24 Kashabowie Subd., to other crossings at mileage 175.82 Kinghorn Subd. and mileage 177.52 Kinghorn Subd., Ont.

- 122519 November 8 – Authorizing the C.N.R. to relocate reflectorized crossing signs from the crossing of their railway and the highway at mileage 0.89 Watrous Subd., to another crossing at mileage 27.08 Rossburn Subd., Man.
- 122520 November 8 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway in Etobicoke, Ont. mileage 13 Weston Subd.
- 122521 November 8 – Authorizing the C.N.R. to operate on the bridge crossing the Endako River, B.C. mileage 21.7 Telkwa Subd.
- 122522 November 8 – Authorizing the C.N.R. to relocate existing reflectorized crossing signs from the crossing of their railway and the highway at mileage 68.05 Montmagny Subd., to another crossing at mileage 85.54 Taschereau Subd., P.Q.
- 122523 November 8 – Authorizing the Saskatchewan Department of Highways and Transportation to construct a service road across the C.P.R. 1.5 miles west of the junction of Hwys. Nos. 1 and 2 bet. the north half of Sec. 7 and the south half of Sec. 18, Twp. 17, Rge. 26, W2M, at mileage 4.78 Outlook Subd.
- 122524 November 8 – Approving Revised Appendix "A" and Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and La Cie de Téléphone de Disraeli.
- 122525 November 8 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Hometown Telephone Company Limited.
- 122526 November 8 – Approving Revised Appendix "A" to Traffic Agreement between The Bell Telephone Company of Canada and Quebec-Telephone (Region de Kamouraska).
- 122527 November 8 – Approving Revised Appendix "A" and Supplement No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and La Cie de Téléphone de St. Gerard.
- 122528 November 8 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Haley's Station Telephone Company Limited.
- 122529 November 8 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone de Chenier.

- 122530 November 8 – Authorizing the C.N.R. to operate under the overhead bridge carrying Trans-Canada Highway across and over their track in the Mun. of St. Thomas-de-la Pointe-a-la-Caille, County of Montmagny, P.Q. mileage 78.96 Montmagny Subd.
- 122531 November 8 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of McKellar.
- 122532 November 8 – Approving Supplement No. 10 to Traffic Agreement between The Bell Telephone Company of Canada and The Corporation of the Township of Maidstone.
- 122533 November 8 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Elmwood Telephone System.
- 122534 November 8 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and the Telephone System of the Municipality of the Township of Pelee Island.
- 122535 November 8 – Approving Revised Appendix “A” and Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and Téléphone Frontenac Limitée.
- 122536 November 8 – Approving Revised Appendix “A” to Traffic Agreement between The Bell Telephone Company of Canada and Téléphone du Nord de Québec Limitée.
- 122537 November 8 – Approving Revised Appendix “A” to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Weedon Inc.
- 122538 November 8 – Authorizing the Alberta Department of Highways to construct an access road across the C.N.R. in the SE $\frac{1}{4}$, Sec. 16, Twp. 50, Rge. 2, W4M, County of Vermilion River, mileage 94.55 Blackfoot Subd.
- 122539 November 8 – Approving Revised Alternate Appendix “B” and Supplements Nos. 4 and 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Calabogie Telephone System.
- *122540 November 8 – Approving Application of the Canadian Freight Association under section 325 of the Railway Act of proposed Canadian Freight Classification No. 22 Agent W.P. Coughlin’s C.T.C. (F) No. 1740. (See page 1307, 56 B.T.C.)

- 122541 November 8 – Approving Revised Appendix “A” to Traffic Agreement between The Bell Telephone Company of Canada and Québec-Téléphone (Division de l’Est).
- 122542 November 8 – Approving Supplement No. 8 to Traffic Agreement between The Bell Telephone Company of Canada and Québec-Téléphone (Division de l’Est).
- 122543 November 8 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Reynardton Road in Yarmouth County, N.S. mileage 126.83 Yarmouth Subd.
- 122544 November 9 – Approving location of the flammable bulk marketing plant of Imperial Oil Limited at Grande Prairie, Alta. near mileage 49.8 Grande Prairie Subd., N.A.R.
- 122545 November 9 – Approving tolls to tariffs filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122546 November 9 – Rescinding authority of Order 74889 which approved Traffic Agreement between the C.P.R. and Norwesto Communications.
- 122547 November 10 – Approving tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 122548 November 10 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 3.29 Val d’Or Subd., P.Q.
- 122549 November 10 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway north of Fergus, Ont. mileage 47.30 Fergus Subd.
- 122550 November 10 – Authorizing the C.P.R. to remove the station agent at Brookmere, British Columbia, mileage 108.7 Princeton Subd.
- 122551 November 10 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 25 in Little York, P.E.I. mileage 3.90 Souris Subd.
- 122552 November 10 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Road No. 11, in Newton, P.E.I., mileage 2.30 Borden Subd.
- 122553 November 10 – Approving location of flammable liquid facilities of Imperial Oil Limited at Cardston, Alta. mileage 46.1 Carston Subd. C.P.R.
- 122554 November 10 – Rescinding authority of Order 111816 which authorized the C.P.R. to relocate the existing reflectorized crossing

signs from the crossing of the D.A.R. and the highway at mileage 4.78 Kingsport Subd., N.S. to the crossing of its railway and the highway at mileage 31.99 Halifax Subd.

- 122555 November 10 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Craig Road Upper Charlo, N.B. mile 156.38 Newcastle Subd.
- 122556 November 10 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileages 8.15 and 10.19 Miami Subd., Man.
- 122557 November 10 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 195.52 Kinghorn Subd., Ont.
- 122558 November 10 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Chemin de Front Trait Carre des 28 in Grande Rivière West, P.Q. mileage 52.81 Chandler Subd.
- 122559 November 10 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Victoria Street, in Barrie, Ont. mileage 63.50 Newmarket Subd.
- 122560 November 10 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 21.96 West Shefford Subd., P.Q.
- 122561 November 10 – Authorizing the D.A.R. to install automatic protection at the crossing of its railway and New Road, in Kings County, N.S. mileage 18.23 Kentville Subd.
- 122562 November 10 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Mountain Avenue in Fort William, Ont. mileage 2.68 Kaministiquia Subd.
- 122563 November 10 – Authorizing the C.P.R. to install reflectorized crossing signs at the crossing of its railway and the highway at mileage 57.45 Emerson Subd., Man.
- 122564 November 10 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the Municipal road, in Webb, Sask. mileage 20.50 Maple Creek Subd.
- 122565 November 10 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Beachwood Road in Niagara Falls, Ont. mileage 5.45 Welland Subd.

- 122566 November 10 – Authorizing Quebec Central Railway Company to remove the caretaker-agent and the station at North Hatley, P.Q. mileage 12.4 Newport Subd.
- 122567 November 10 – Authorizing the C.P.R. to make changes to its signals between Field and Golden, B.C. mileage 0.0 to mileage 34.0 Mountain Subd.
- 122568 November 14 – Authorizing the C.P.R. and C.N.R. to operate their engines, cars and trains over the temporarily located track of the Prescott Subd. bet. stations 78 + 50 and 106 + 71.93, City of Ottawa, Ont.
- 122569 November 14 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Tiffin Street in the City of Barrie, Ont. mileage 63.0 Newmarket Subd.
- 122570 November 14 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker-Express Agent at Dysart, Sask. mileage 49.2 Bulyea Subd.
- 122571 November 14 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Garner Road in the Township of Stamford, Ont., mileage 6.35 Grimsby Subd.
- 122572 November 14 – Revoking authority of Order 87629 which authorized the location of handling and storage facilities of Eitel Brothers near the tracks of the C.N.R. at Tillsonburg, Ont.
- 122573 November 14 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Double Rang Road mileage 1.91 of spur track serving Canadian Electronic Zinc Co., off mileage 39.15 Valleyfield, Subd. P.Q.
- 122574 November 14 – Revoking authority of Order 89967 which authorized the location of the flammable liquid bulk storage and transfer facilities of The British American Oil Co. Ltd. at La Tuque, P.Q. near mileage 122.7 La Tuque Subd. C.N.R.
- 122575 November 14 – Approving location of proposed diesel fuel oil storage and transfer facilities of the Government of Ontario, at Mimico, Ont. near mileage 7.0 Oakville Subd. C.N.R.
- 122576 November 14 – Authorizing the C.N.R. to remove the bell and danger sign at the crossing of their railway and 7th Avenue in the City of Moose Jaw, Sask. mileage 39.10 Centra Butte Subd.

- 122577 November 14 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 42.52 Val d'Or Subd. P.Q.
- 122578 November 14 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122579 November 15 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122580 November 15 – Authorizing the C.N.R. to operate their engines, cars and trains on the bridge at mileage 34.2 Yale Subd., B.C.
- 122581 November 15 – Authorizing the C.N.R. to operate their engines, cars and trains on the bridge at mileage 81.3 Edson Subd., Alta.
- 122582 November 15 – Amending Order 122034 which relieved the C.P.R. from erecting and maintaining right of way fences bet. mileage 120.66 and mileage 121.69 (both sides) on its Indian Head Subd., Sask.
- 122583 November 15 – Exempting the C.P.R. from erecting and maintaining right of way fences bet. mileage 107.35 and 108.38 (both sides) and mileage 115.53 to mileage 116.55 (both sides) on the right of way of its Indian Head Subd., Sask.
- 122584 November 15 – Authorizing the C.N.R. to construct two pedestrian underpasses across and under their tracks at Port Credit Station, Town of Port Credit, Ont. mileage 12.81 Oakville Subd.
- 122585 November 15 – Approving location of proposed Ammonium Nitrate storage facility of Vegreville Co-Operative Association Limited, at Vegreville, Alta. near mileage 23.9 Vegreville Subd. C.P.R.
- 122586 November 16 – Authorizing the C.P.R. to make changes to the signals between mileage 22.5 and mileage 36 Cartier Subd., Ont.
- 122587 November 16 – Authorizing the City of St. Thomas, Ont. to widen Centre Street at the crossing of the N.Y.C. near mileage 115.35 Main Line Subd.
- 122588 November 16 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 0.80 Pembroke interchange H.B. mileage 88.67 Beachburg Subd., Ont.
- 122589 November 16 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 25.00 West Shefford Subd., P.Q.

- 122590 November 16 -- Authorizing the C.N.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 24.19 West Shefford Subd., P.Q.
- 122591 November 16 -- Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Blandford Road in Lunenburg County, N.S. mileage 40.0 Chester Subd.
- 122592 November 16 -- Authorizing the C.N.R. to install flashing light signals at the crossing of their railway and the Township road in Bloomfield Ont., mileage 3.28 Picton Subd.
- 122593 November 16 -- Authorizing the D.A.R. to install flashing light signals and bell at the crossing of its railway and Brooklyn Street in Middleton, N.S. mileage 31.54 Kentville Subd.
- 122594 November 16 -- Approving C.N.R. siding serving Dupont Company of Canada Limited constructed across Fairall Street, in the Town of Ajax, Ont.
- 122595 November 16 -- Approving C.N.R. bridge located on an industrial spur leading from Skeena Subd. at mileage 86.25, B.C. and authorizing the C.N.R. to operate over said bridge.
- 122596 November 16 -- Authorizing the Town of Boucherville, P.Q. to construct de Mezy Street across the C.N.R. at mileage 9.91 Sorel Subd.
- 122597 November 16 -- Amending Order 116040 which authorized the installation of automatic protection at the crossing of the C.N.R. and Highbury Avenue, in the City of London, Ont. mileage 30.19 Thorndale Subd.
- 122598 November 16 -- Approving tariffs and supplements to tariffs file by the Cumberland Railway Company under Section 8 of the M.F.R.A.
- 122599 November 16 -- Amending Order 116019 which authorized the installation of automatic protection at the crossing of the C.N.R. and Maden Street, in the City of Salaberry-de-Valleyfield, P.Q. mileage 51.36 Valleyfield Subd.
- 122600 November 16 -- Amending Order 114793 which authorized the installation of automatic protection at the crossing of the C.N.R. and County Road No. 8, Twp. of Onondago, Ont. mileage 67.68 Dunnville Subd.
- 122601 November 16 -- Amending Order 116082 which authorized the City of Niagara Falls, Ont. to relocate Highway No. 20 where it crosses the C.N.R. in Lot 138, Twp. of Stamford, from

mileage 5.25 to mileage 5.26 Welland Subd. and the relocation and improvement of existing automatic protection.

- 122602 November 16 – Approving Supplement No. 1 to Canadian Freight Classification No. 22, C.T.C. (F) No. 1740 (See page 1308, 56 B.T.C.)
- 122603 November 16 – Rescinding authority of Order 79856 which imposed a speed restriction of five miles per hour over the crossing of the C.N.R. and Highway No. 3 in P.E.I., mileage 1.10 Montague Subd.
- 122604 November 17 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Clear Lake Public Road, Ont. mileage 66.23 Kapuskasing Subd.
- 122605 November 17 – Authorizing the Canadian Freight Association to publish a rate of \$3.76 per 100 lbs. on Glass-Ceramicware, cooking or serving, and Glass-Ceramicware, equipped with electric heating units, candles, covers, handles, metal or synthetic resin fixtures, serving baskets or table-type holders or stands, at carload minimum weight of 40,000 lbs. subject to a released valuation not exceeding thirty-five cents per lb. from Toronto, Ont. to B.C. Group 1 destinations in Canadian Freight Association Tariff 1–T, C.T.C. (F) 1734. (See page 1309, 56 B.T.C.)
- 122606 November 17 – Approving the widening of Lochiel Street at the crossing of the C.P.R. in the Town of Renfrew, Ont. mileage 59.23 Chalk River Subd.
- 122607 November 17 – Authorizing the City of Windsor, Ont. to connect and synchronize the traffic signals at the intersection of Walker Road and Grand Marais Road with the automatic protection at the crossing of the C.P.R. and Walker Road, mileage 108.33 Windsor Subd.
- 122608 November 17 – Authorizing Northwest Silica Limited to construct an overhead sand belt conveyor on the right of way and across the C.P.R. serving the icehouse at North Bend, B.C. opposite mileage 121.4 Thompson Subd.
- 122609 November 17 – Amending General Order No. E–6 which contains regulations for installation and testing of protective devices at highway crossings at grade. (See page 1310, 56 B.T.C.)
- 122610 November 17 – Authorizing the C.N.R. to operate their engines, cars and trains under the overhead bridge carrying La Route across

and over their tracks in the City of Montreal, P.Q. mileage 0.28 National Harbours Board Lead track commencing at mileage 72.62 St Hyacinthe Subd.

- 122611 November 17 – Approving Supplements No. 3 and 4 to Traffic Agreement between The Bell Telephone Company of Canada and Oakwood Telephone Company Limited.
- 122612 November 17 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and Department of Land and Forests (Mississagi and White River Lines).
- 122613 November 17 – Authorizing the City of Windsor, Ont. to connect and synchronize the traffic signals at the intersection of Howard Avenue and Memorial Drive with the automatic protection at the crossing of the C.P.R. and Howard Avenue, mileage 109.7 Windsor Subd.
- 122614 November 17 – Extending the time within which the Chesapeake and Ohio Railway Company is required to install automatic protection at the crossing of its railway and County Road No. 6, County of Kent, Ont. mileage 64.3 No. 1 Subd.
- 122615 November 18 – Extending the time within which the Algoma Central Railway is required to install automatic protection at the crossing of its railway and the Township Road, in Lot 6, Con. 6, Village of Searchmont, Ont. mileage 31.42 Soo Subd.
- 122616 November 18 – Authorizing the Saskatchewan Department of Highways and Transportation to construct an additional roadway of Highway No. 1 across the C.P.R. between the north half of Sec. 7 and the south half of Sec. 18, Twp. 17, Rge. 26, W2M, west of Moose Jaw, at mileage 4.74 Outlook Subd.
- 122617 November 18 – Authorizing the C.P.R. to make changes to the signals between Lake Louise, Alta. and Field, B.C. mileage 116.0 to mileage 136.6 Laggan Subd.
- 122618 November 18 – Authorizing the C.P.R. to reconstruct the bridge carrying its tracks across and over Windermere St. and the pedestrian subway at Windermere Street, in the City of Vancouver, B.C. at mileage 125.24 Cascade Subd.
- 122619 November 18 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Ste. Scholastique, P.Q. mileage 32.48 Lachute Subd.

- 122620 November 18 – Authorizing the C.N.R. to replace the beam spans of the bridge crossing Elizabeth Street, in the Town of Grimsby, Ont. at mileage 27.6 Grimsby Subd.
- 122621 November 18 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Cherrywood, Ont. mileage 191.92 Belleville Subd.
- 122622 November 18 – Approving the location of additional and existing facilities of Imperial Oil Limited at Kamsack, Sask. near mileage 0.15 Margo Subd., C.N.R.
- 122623 November 18 – Extending the time within which the Chesapeake and Ohio Railway Company is required to install automatic protection at the crossing of its railway and Kent County Road No. 30, near Chatham, Ont. mileage 21.5 No. 2 Subd.
- 122624 November 21 – Authorizing the Township of Blenheim to improve the crossing of the Township Road and the C.N.R. between Cons. 5 and 6, County of Oxford, Ont. mileage 6.58 Drumbo Subd.
- 122625 November 21 – Authorizing the C.P.R. diversion of its Shogomoc Subd. bet. mile 75.51 and 76.18 in N.B.
- 122626 November 21 – Authorizing the amount payable from the Railway Grade Crossing Fund towards the cost of placing reflective markings on the sides of railway cars in respect of The Toronto, Hamilton and Buffalo Railway Company.
- 122627 November 21 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at St. Hermas, P.Q. mileage 37.45 Lachute Subd.
- 122628 November 21 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122629 November 21 – Approving changes to the automatic protection at the crossing of C.N.R. and Highway No. 45 at mileage 0.94 Val d'Or Subd., P.Q.
- 122630 November 21 – Authorizing the C.P.R. to operate on the subway carrying Highways Nos. 7 and 15 across and under its track at mileage 8.75 Carleton Place Subd. bet. Lot 7 Con. 2 Ottawa Front, and Lot 35 Conc. 5, Rideau Front, near the Village of Bells Corners, Ont.
- 122631 November 21 – Approving changes to the automatic protection at the crossing of the C.P.R. and St-Pierre-de-la-Famine

Road and the track of the Quebec Central Railway Company in the Parish of St. George East, P.Q. mileage 22.60 Chaudiere Subd.

- 122632 November 21 – Rescinding authority of Order 110565 which authorized the relocation of reflectorized crossing signs at the crossing of The Cumberland Railway Company and the highway at mileage 10.98 Main Line Subd., N.S.
- 122633 November 21 – Authorizing the C.N.R. to construct a siding across the public road to serve Eagle Lake Sawmills, in the Cariboo District, B.C. opposite mileage 135.87 Fraser Subd.
- 122634 November 21 – Amending Order 115299 which authorized the Township of Medonte to widen the crossing and improve approach grades at the crossing of the C.P.R. and the Township Road, bet. Lots 6 & 7, Con. 8, County of Simcoe, Ont. mileage 81.7 MacTier Subd.
- 122635 November 21 – Revoking authority of Order 74544 which approved the location of handling and storage facilities of Canadian Oil Companies at Regina, Sask. C.N.R.
- 122636 November 21 – Exempting the C.P.R. from erecting and maintaining fences on both sides of its Vanguard Subd. bet. mileage 20.58 and 21.75, Sask.
- 122637 November 21 – Approving Supplement No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and Harwood Rural Telephone Company Limited.
- 122638 November 21 – Approving Supplement No. 4 to Traffic Agreement between The Bell Telephone Company of Canada and The Wroxeter Telephone Company Limited.
- 122639 November 21 – Approving Revised Appendix “A” and Supplements Nos. 3, 4 and 5 to Traffic Agreement between The Bell Telephone Company of Canada and Telebec Inc.
- 122640 November 21 – Approving new Traffic Agreement and Supplement No. 1 between The Bell Telephone Company of Canada and Le Téléphone de Val Racine Enrg.
- 122641 November 21 – Approving new Traffic Agreement and Supplement No. 1, between The Bell Telephone Company of Canada and La Compagnie Téléphonique de St-Sylvere.
- 122642 November 21 – Approving Revised Appendix “A” to Traffic Agreement between The Bell Telephone Company of Canada and Le Téléphone Arpin.

- 122643 November 21 – Approving Supplement No. 8 to Traffic Agreement between The Bell Telephone Company of Canada and Muskoka and Parry Sound Telephone Company Limited.
- 122644 November 21 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone Notre Dame des Boix.
- 122645 November 21 – Approving Supplement No. 2 to Traffic Agreement between The Bell Telephone Company of Canada and La Cie de Téléphone St. Bonaventure.
- 122646 November 21 – Approving Revised Appendix “A” dated Sept. 20, 1966 and Revised Appendix “A” dated Nov. 1, 1966 to Traffic Agreement between The Bell Telephone Company and Téléphone du Nord de Québec Limitée (Division de Val d’Or).
- 122647 November 21 – Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and The Elmwood Telephone System.
- 122648 November 21 – Approving Supplement No. 1 to Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de Ste-Sophie de Megantic.
- 122649 November 21 – Approving Revised Appendix “A” and Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Leeds and Frontenac Rural Telephone Company Limited.
- 122650 November 22 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway near Pinkie, Sask. mileage 97.11 Indian Head Subd.
- 122651 November 22 – Approving Supplement No. 6 and No. 7 to Traffic Agreement between The Bell Telephone Company of Canada and The Morrow Telephone Company Limited.
- 122652 November 22 – Approving Supplement No. 5 to Traffic Agreement between The Bell Telephone Company of Canada and the Eastern Community Telephone Company Limited (Dorland Exchange).
- 122653 November 22 – Approving Supplements No. 9, 10 and 11 to Traffic Agreement between The Bell Telephone Company of Canada and North Renfrew Telephone Company Limited.
- 122654 November 22 – Authorizing the C.N.R. to construct a proposed diversion of their trackage bet. mileage 114.47 and 114.65 Yale Subd., B.C. and authorizing the construction of an exten-

- sion to the concrete relieving platform of the highway bridge at mileage 114.45, Yale Subd., B.C.
- 122655 November 22 – Authorizing St. Teresa's Local Road Board, Nfld. to construct a local road at grade across the C.N.R. near St. Teresa's Station, at mileage 469.5 Port aux Basques Subd.
- 122656 November 22 – Authorizing the Highways Department of Manitoba to improve Provincial Road No. 500 at the crossing of the C.P.R. in the south half of Sec. 33, Twp. 11, Rge. 6 East Principal Meridian, R.M. of Springfield, Man. mileage 106.59 Keewatin Subd.
- 122657 November 22 – Approving location of proposed additional tank car unloading facilities of Imperial Oil Limited at Ste. Thecle, near mileage 14.8 Linton Subd., P.Q. C.N.R.
- 122658 November 22 – Authorizing the C.N.R. to install reflectorized crossing signs at the crossings of their railway and the highway at mileages 1.34 and 8.36 Elmira Subd. and mileage 11.89 Borden Subd., P.E.I. and mileage 41.67 Oromocto Subd., N.B.
- 122659 November 22 – Authorizing the C.N.R. to operate their engines, cars and trains on the private siding serving East Coast Smelting and Chemical Company Limited, off the Newcastle Subd. at mileage 132.31 and crossing Highway No. 11 at mileage 1.44 in the Parish of Beresford, County of Gloucester, N.B.
- 122660 November 22 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and Provincial Road No. 464 near Inglow, Man. mileage 113.41 Rivers Subd.
- 122661 November 22 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and St. James Street, in the Town of Sackville, N.B. mileage 0.27 Tormentine Subd.
- 122662 November 22 – Approving changes to the automatic protection at the crossing of C.P.R. and Anderson Street, Town of Grenfell, Sask. mileage 15.7 Indian Head Subd.
- 122663 November 22 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Maple Grove Road, east of Beamsville, Ont. mileage 20.51 Grimsby Subd.

- 122664 November 22 — Extending the time within which the C.N.R. is required to install flashing light signals at the crossing of their railway and Cannon Street, City of Hamilton, Ont., mileage 0.53 Hagersville Subd.
- 122665 November 22 — Authorizing the County of Lethbridge No. 26, Alta. to construct a county road across the C.P.R. in Sec. 23, Twp. 8, Rge. 21, West 4 Meridian, mileage 98.56 Stirling Subd.
- 122666 November 22 — Authorizing the C.N.R. to install flashing light signals at the crossing of their railway and Provincial Road No. 203, at Woodridge, Man. mileage 88.43 Sprague Subd.
- 122667 November 22 — Authorizing the C.N.R. to install flashing light signals at the crossing of their railway and Provincial Road No. 330, at Morris, Man. mileage 36.44 Letellier Subd.
- 122668 November 22 — Authorizing the C.N.R. to improve the automatic protection at the crossing of their railway and County Road No. 7 in Shannonville, County of Hastings, Ont. mileage 213.45 Kingston Subd. and authorizing the County to improve said crossing.
- 122669 November 22 — Authorizing the C.N.R. to operate their engines, cars and trains on the temporary track diversion, City of Montreal, P.Q. mile 3.8 and 4.4 Montreal Subd.
- 122670 November 22 — Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and Provincial Road No. 221, at Moore, Man. mileage 8.56 Oak Point Subd.
- 122671 November 23 — Authorizing the changes in signals at the crossing of C.P.R. at mileage 80.4 Havelock Subd. and C.N.R. at mileage 25.0 Maynooth Subd., Ont.
- 122672 November 23 — Authorizing the C.P.R. to operate on the deviated portion of its Outlook Subd. bet. mileage 61.13 and 74.93, Sask.
- 122673 November 23 — Amending Order 122375 which authorized the City of Roberval, P.Q. to construct a pedestrian subway across and under the C.N.R. mileage 11.82 Roberval Subd.
- 122674 November 23 — Determining payment of Vote No. 84a of the supplementary Estimates (A) for the fiscal year ending March 31, 1967 as authorized by Appropriation Act No. 8, 1966 (See page 1311, 56 B.T.C.)

- 122675 November 23 – Authorizing the C.N.R. to install flashing light signals at the crossing of their railway and Provincial Road No. 474 at Arrow River, Man. mileage 173.96 Rivers Subd.
- 122676 November 23 – Authorizing the C.N.R. to remove the station agents from Delburne, Elnora, Huxley, Swalwell, Craigmyle, Delia and Byemoor, Alberta.
- 122677 November 23 – Authorizing the C.N.R. to construct their Amesdale-Bruce Lake Branch Line across Highway No. 105 at mileage 30.71, Ont.
- 122678 November 23 – Authorizing the C.P.R. to install flashing light signals at the crossing of its railway and 5th Range Road, Mun. of St-Nicephore, Twp. of Wickham, P.Q. mileage 48.84 Drummondville Subd.
- 122679 November 23 – Amending Order 112674 which authorized the City of Fort William, Ont. to widen Arthur Street at the crossing of the C.N.R., mileage 4.28 Kashabowie Subd. and authorizing the C.N.R. to install automatic protection in lieu of existing protection at said crossing.
- 122680 November 23 – Authorizing the Quebec Department of Roads to widen Front de la Grillade Road at the crossing of the Quebec Central Railway in Rivière Boyer, Lévis County, P.Q. mileage 16.09 Lévis Subd.
- 122681 November 23 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and Provincial Road No. 242, at Caye East, Man. mileage 70.46 Rivers Subd.
- 122682 November 23 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and Black Point Road, in Charlo, N.B. mileage 144.24 Newcastle Subd.
- 122683 November 23 – Requiring the C.N.R. to protect their crossing at Highway No. 62, Ont. mileage 1.80 Madoc Spur by bringing all trains to a stop and by a member of the train crew.
- 122684 November 23 – Authorizing the Township of Marlborough, Ont. to widen and improve Township Road at the crossing of the C.N.R. bet. Lots 24 and 25, Con. 8, County of Carleton at mileage 21.24 Smiths Falls Subd.
- 122685 November 23 – Authorizing the C.N.R. to remove the station agent at Trochu, Alta.
- 122686 November 23 – Approving new Traffic Agreement and Supplements No. 5 and 2 between The Bell Telephone Company of Canada and Téléphone de St-Honoré de Shenley Inc.

- 122687 November 23 – Approving location of flammable liquid bulk storage and transfer facilities of Shell Canada Limited at Broderick, Sask. near mile 112.7 Outlook Subd. C.P.R.
- 122688 November 23 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and Brown Road at Chatham Head, N.B. mileage 4.20 Loggieville Subd.
- 122689 November 23 – Authorizing the C.N.R. to operate over the temporary deviation of their track at mileage 2.2 Oxford Subd., N.S.
- 122690 November 23 – Approving C.N.R. diversion of their Oxford Subd. bet. mileage 69.12 and 73.24, County of Pictou, N.S.
- 122691 November 23 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and the access road to Vassar, Man. mileage 68.68 Sprague Subd.
- 122692 November 23 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and Station Road, at Plumweseep, N.B. mileage 40.08 Sussex Subd.
- *122693 November 23 – Rescinding Order 56197 which approved the uniform regulations of the Railway Association of Canada governing the fumigation of passenger carrying equipment (See page 1313, 56 B.T.C.)
- 122694 November 23 – Authorizing the C.N.R. to install flashing light signals and bell at the crossing of their railway and the access road to Middlebro, Man. mileage 48.56 Sprague Subd.
- 122695 November 23 – Authorizing the C.P.R. to install flashing light signals and bell at the crossing of its railway and Provincial Road No. 260, near Plumas, Man. mileage 40.37 Minnedosa Subd.
- 122696 November 23 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Public Road No. 247, near St. Norbert, Man. mileage 9.50 Letellier Subd.
- 122697 November 24 – Authorizing the C.N.R. to construct two additional tracks across St. Gregoire Road, Parish of St. Joseph de Soulanges, P.Q. mileage 28.19 Kingston Subd.
- 122698 November 24 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Barnaby River, N.B. mileage 56.33 Newcastle Subd.
- 122699 November 24 – Authorizing the C.P.R. to install reflectorized crossing signs at the crossing of their railway and the highway at mileage 3.5 Nemegos Subd., Ont.

- 122700 November 24 – Authorizing the New Brunswick Department of Public Works to replace the subway carrying Union Street across and under the C.N.R. in the City of Fredericton, mileage 109.2 Nashwaak Subd.
- 122701 November 24 – Authorizing the C.P.R. to close existing crossing of its railway and the municipal road in the NW¼, Sec. 6, Twp. 14, Rge. 13 W3M Rural Mun. of Swift Current No. 137, Sask. mileage 11.9 Vanguard Subd.
- 122702 November 24 – Extending the time within which the N.Y.C. is required to install automatic protection in lieu of existing protection at the crossing of its railway and Highway No. 21 in Ridgetown, Ont. mileage 157.67 N.F. Main Line.
- 122703 November 24 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 305 in Ste. Agathe, Man. mileage 20.40 Letellier Subd.
- 122704 November 24 – Authorizing the Newfoundland and Labrador Department of Mines, Agriculture and Resources to construct an access road to the Provincial Park across the track of the C.N.R. near Rushy Pond, Nfld., at mileage 278.11 Bishop's Falls Subd.
- 122705 November 24 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 112 in Salisbury, N.B. mileage 1.89 Albert Subd.
- 122706 November 24 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 334, near Diamond, Man. mileage 13.85 Rivers Subd.
- 122707 November 24 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 205 in Silver Plains, Man. mileage 29.48 Letellier Subd.
- 122708 November 24 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and County Road No. 2 at Iroquois, Ont. mileage 98.9 Kingston Subd.
- 122709 November 24 – Authorizing the Saskatchewan Department of Highways and Transportation to construct an additional roadway of Highway No. 1 across the C.N.R. bet. NW¼, Sec. 8, and the SW¼ Sec. 17, Twp. 17, Rge. 27 W2M, west of Moose Jaw, Sask. mileage 47.45 Central Butte Subd.
- 122710 November 25 – Approving location of flammable liquid bulk marketing plant of Shell Canada Limited at Fox Valley, Sask. C.P.R.

- 122711 November 25 – Approving location of flammable liquid bulk marketing plant of Imperial Oil Limited at Okotoks, Alta. near mileage 26.3 MacLeod Subd. C.P.R.
- 122712 November 25 – Authorizing the C.P.R. to construct a crossover connection with C.N.R. at Red Rock, Ont. mileage 132.09 Kinghorn Subd. (C.N.R.)
- 122713 November 25 – Approving location of flammable liquid bulk storage and transfer facilities of Co-opérative Régionale Nipissing Sudbury Limited, at Verner, Ont. near mileage 33.82 Cartier Subd. C.P.R.
- 122714 November 25 – Authorizing the Quebec Department of Roads to improve the Chemin Cote Sud de la Rivière at the crossing of the C.P.R., in the Mun. of Sutton, P.Q. mileage 35.96 Newport Subd. and authorizing the C.P.R. to install automatic protection at said crossing.
- 122715 November 25 – Authorizing the Municipality of Metropolitan Toronto, Ont. to construct a subway to carry Sheppard Avenue across and under the C.N.R. in Twp. of North York, at mileage 12.54 Bala Subd. eliminating existing crossing and authorizing the construction of a temporary detour road across the permanent and deviated tracks of the C.N.R. approx. 150 feet north of existing crossing, and authorizing the C.N.R. to construct a temporary deviation of their railway on a temporary trestle across Sheppard Avenue.
- 122716 November 25 – Authorizing the Municipal District of Pincher Creek No. 9, Alta. to improve the municipal road at the crossing of the C.P.R. in the NW¼ Sec. 19, Twp. 5, Rge. 28, W4M, mileage 12.25 Brocket Southerly Branch.
- 122717 November 25 – Authorizing the Township of North York, Ont. to construct a subway to carry Steeles Avenue West across and under the C.N.R. bet. the Twp. of North York and Twp. of Vaughan, mileage 12.92 Newmarket Subd. and authorizing the C.N.R. to construct a temporary diversion of their railway across Steeles Avenue West.
- 122718 November 25 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Provincial Highway No. 62, at Birds Creek, Ont. mileage 90.21 Maynooth Subd.
- 122719 November 25 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and St. Paul Street, in City of Kelowna, B.C. mileage 118.84 Okanagan Subd.

- 122720 November 25 – Authorizing the Quebec Department of Roads to reconstruct Petit Road at the crossing of the C.N.R. Mun. of the Parish of St-Lazare, County of Bellechasse, mileage 182.40 Monk Subd. and authorizing the C.N.R. to install automatic protection at said crossing.
- 122721 November 25 – Authorizing the C.N.R. to remove the station agent at Gilmour, Ont.
- 122722 November 25 – Authorizing the removal of the speed limitation at the crossing of the N.Y.C. and Bouchette Street at Huntingdon, P.Q. mileage 17.94 Adirondack Junction and Malone Subd.
- 122723 November 25 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Durham Road at Durham Station, N.B. mileage 95.24 Nashwaak Subd.
- 122724 November 25 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and 11th Concession Road, Twp. of Innisfil, Ont. mileage 58.47 Newmarket Subd.
- 122725 November 25 – Amending Order 116483 which authorized the Municipality of Metropolitan Toronto, to reconstruct and improve the overhead bridge carrying Don Mills Road across and over the C.N.R. in the Twp. of North York, Ont., mileage 10.28 Bala Subd.
- 122726 November 25 – Amending Order 114575 which authorized the Township of Whitchurch, Ont. to improve the crossing of Sideroad and the C.N.R. bet. Lots 25 and 26, Con. 5, mileage 33.8 Bala Subd.
- 122727 November 25 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Dorchester, Ont. mileage 67.01 Dundas Subd.
- 122728 November 25 – Authorizing the removal of the speed limitation at the crossing of the C. & O.R. and Highway No. 18, 1½ miles west of Kingsville, Ont. mileage 29.2 No. 1 Subd.
- 122729 November 28 – Approving changes in the automatic protection at the crossing of C.N.R. and Cameron Street, in Prince George, B.C., mileage 1.05 Nechako Subd.
- 122730 November 28 – Authorizing International Nickel Company of Canada Limited to construct one 20 inch water pipeline, one 14 inch concentrates pipeline and one 20 inch tailings pipeline on a trestle across and over the C.P.R. in Lot 9,

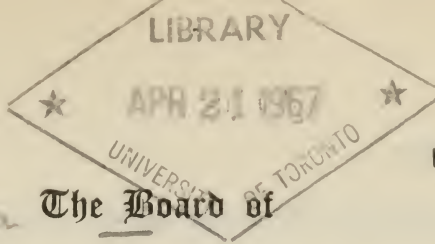
Con. 4, McKim Twp. (City of Sudbury) Ont. mileage 81.4
Cartier Subd.

- 122731 November 28 – Approving clearances on C.P.R. trackage serving Kingsway Lumber Company Limited, commencing at mileage 10.4 Galt Subd., Twp. of Etobicoke, Ont.
- 122732 November 28 – Authorizing the Quebec Department of Roads to construct Highway No. 3 across the C.N.R. in the Mun. of the Parish of Ste-Anne-de-Varennes, County of Vercheres, mileage 12.84 Sorel Subd.
- 122733 November 28 – Approving changes to the automatic protection at the crossing of C.N.R. and the highway at mileage 38.5 Letellier Subd., Man.
- 122734 November 28 – Approving changes to the automatic protection at the crossing of C.N.R. and Boundary Road bet. the Town of Burlington and Oakville, Ont. mileage 26.98 Oakville Subd.
- 122735 November 28 – Authorizing the C.P.R. to remove the caretaker at Murillo, Ont. mileage 12.8 Kaministiquia Subd.
- 122736 November 28 – Amending Order 118345 which authorized the C.N.R. to install automatic protection at the crossing of their railway and First Range Road in Sayabec, P.Q. mileage 75.93 Mont-Joli Subd.
- 122737 November 28 – Amending Order 116525 which authorized the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 6 in Cap d'Espoir, P.Q. mileage 63.92 Chandler Subd.
- 122738 November 28 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 350 near Deer, Man. mileage 76.57 Rivers Subd.
- 122739 November 28 – Revoking authority of Order 66698 which approved the location of the flammable liquid bulk marketing plant of Eston Co-Operative Association Limited at Eston, Sask. near mileage 84.23 Elrose Subd. C.N.R.
- 122740 November 28 – Approving the location of flammable liquid bulk marketing plant of Shell Canada Limited at Lynn Lake, Man. near mileage 184.8 Sherridon Subd. C.N.R.
- 122741 November 28 – Approving location of Ammonium Nitrate storage facilities of Coronation Co-Operative Association Limited at Coronation, Alta., near mileage 116.5 Coronation Subd. C.P.R.

- 122742 November 28 – Revoking authority of Order 116146 which approved the location of flammable liquid bulk marketing plant of British American Oil Company at Lynn Lake, Man. near mileage 185.0 Sherridon Subd. C.N.R.
- 122743 November 28 – Authorizing the C.N.R. to improve the automatic protection at the crossings of their railway and the highway at mileages 108.10 and 109.89 Alderdale Subd., Ont.
- 122744 November 28 – Authorizing the C.N.R. to operate their engines, cars and trains under the overhead bridge carrying University Street extension across and over their tracks in the City of Montreal, P.Q. mileage 0.99 Harbour Spur, Montreal Subd.
- *122745 November 28 – Suspending C.P.R. Tariffs C.T.C. Nos. 96 and 97 and D.A.R. Tariff C.T.C. No. 1458 pending determination of the matter. (See page 1314, 56 B.T.C.)
- 122746 November 29 – Approving location of station facilities of C.N.R. at Caraquet, N.B. mileage 48.5 Caraquet Subd.
- 122747 November 29 – Authorizing the Ontario Department of Highways to improve the public crossing of the highway and the C.P.R. in Lot 7, Con. 11, Twp. of Denison, Ont. at mileage 21.18 Webbwood Subd. and authorizing the railway to install automatic protection.
- 122748 November 29 – Approving changes in the automatic protection at the crossing of C.N.R. and Cawthra Road at Port Credit, Ont., mileage 11.47 Oakville Subd.
- 122749 November 29 – Authorizing the Corporation of St. Jean Chrysostome, P.Q. to widen crossing of Commercial Street and the C.N.R., mileage 12.93 Diamond Subd.
- 122750 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Brimley Road, Twp. of Scarborough, Ont. mileage 324.22 Kingston Subd.
- 122751 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Alexandria Avenue, near Long Branch, Twp. of Toronto, Ont. mileage 11.03 Oakville Subd.
- 122752 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and St. Clair Avenue, Twp. of Scarborough Ont. mileage 325.18 Kingston Subd.

- 122753 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and 30th Street, at Long Branch, Ont. mileage 8.76 Oakville Subd.
- 122754 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Victoria St., in Whitby, Ont. mile 304.59 Kingston Subd.
- 122755 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Beechgrove Drive, Twp. of Scarborough, Ont. mileage 318.83 Kingston Subd.
- 122756 November 29 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Price Range Road in the Parish of St. Prosper, P.Q. mileage 50.33 La Tuque Subd.
- 122757 November 29 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 352 in Firdale, Man. mileage 91.90 Rivers Subd.
- 122758 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Stavebank Road, Town of Port Credit, Ont. mileage 13.10 Oakville Subd.
- 122759 November 29 – Approving tariffs and supplements to tariffs filed by the C.P.R. under Sections 3 and 8 of the M.F.R.A.
- 122760 November 29 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122761 November 29 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Moffatt Street in Pembroke, Ont. mileage 94.50 Chalk River Subd.
- 122762 November 29 – Authorizing the C.N.R. to remove the station agent and station building at Marysville, N.B. mileage 106.9 Nashwaak Subd.
- 122763 November 29 – Approving changes to the automatic protection at the crossing of C.P.R. and Highway No. 7, near Saskatoon, Sask., mileage 4.44 Wilkie Subd.
- 122764 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Manse Road, Twp. of Scarborough, Ont. mileage 319.90 Kingston Subd.
- 122765 November 29 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Highway No. 3 at Fort Macleod, Alta. mileage 30.72 Crowsnest Subd.

- 122766 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and County Road No. 2 at Bronte, County of Halton, Ont. mileage 25.69 Oakville Subd.
- 122767 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Kennedy Road, at Scarborough, Ont. mileage 325.74 Kingston Subd.



Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

IN THE MATTER OF the application of the Town of Winkler, Manitoba, for the construction of a crossing at grade over the railway of the Canadian Pacific Railway Company at 5th Avenue (Main Street), mileage 71.94 LaRiviere Subdivision, in the southeast quarter of Section 4, Range 3, West 4th Meridian, at Winkler, in the Province of Manitoba.

File No. 47255

December 30, 1966

BEFORE:

ROD. KERR, Q.C.,
J.E. DUMONTIER,
W.R. IRWIN,

*Chief Commissioner,
Deputy Chief Commissioner,
Commissioner.*

APPEARANCES:

C.J. MacLEOD, Q.C.,
JOHN EPP,
HENRY WIEBE,

*for the Town of Winkler.
Mayor of Winkler.
representing Garden Valley School
Division.*

G.J. SWATSKY,

*representing Advisory Planning
Commission, Town of Winkler.*

H.P. FRIESEN,

*representing Winkler Chamber of
Commerce.*

J.M. FROESE, M.L.A.,
W.L. ENNS,

*Rhineland.
representing Winkler Co-Operative
Elevator Association.*

E.B. LOEWEN,

B.E. SCOTT

and

W.N. CHERNICK, }

*for the Canadian Pacific Railway
Company.*

Heard at Winkler, Manitoba, October 19, 1966.

JUDGMENT

KERR, C.C.:

The subject matter of this decision is an application by the Town of Winkler for leave to construct Main Street (5th Street) northerly across the right-of-way and other land of the Canadian Pacific Railway Company in that Town.

The principal issues and problems are:

- a) The need for the crossing in the development of the Town;
- b) The Board's power to give leave to carry Main Street across the land of the railway company;
- c) Disadvantages of the crossing to the Company;
- d) Hazards of the crossing and need for protection;
- e) The cost of the protection and by whom it is to be borne;
- f) The beet loading facilities of Manitoba Sugar Company;
- g) Spotting and movement of grain cars;

The need for the crossing:

Main Street runs south-north through the principal business and commercial area of Winkler. It is south of the railway property and does not extend across that property or north of the railway. It is 100 feet wide, immediately south of the railway property. There are three tracks to be crossed, one of which is the main line, the others being siding and elevator tracks.

The Town is served by three north-south crossings of the railway. One is paved Provincial Trunk Highway No. 32 at the east of the Town, with flashing lights and bell at the crossing. Another, West Street, is in the western part of the Town and it is also paved. West Street has never been declared by the Board to be a public crossing, but there is no doubt that it has become such a crossing. These crossings are about half a mile apart. In between them, there is a narrow crossing, about 20 feet wide, called 6th Street. It has a private crossing sign and a standard cross-buck sign. It is used by traffic moving between North Railway Street, which runs immediately north of the railway property and parallel to it, and South Railway Avenue, which runs immediately south of the railway property and parallel to it, and from these streets to the siding and elevator tracks. Counsel for Canadian Pacific said that this crossing is there for access to the elevators and is used basically by trucks. Undoubtedly it is also used by highway traffic moving between North Railway Street and South Railway Avenue. In its letter application dated June 10, 1965, the Town asked the Board to consider this crossing to be a public crossing and to transfer its rights to the proposed Main Street crossing. At the hearing, the crossing was

treated by the Town and Canadian Pacific as a private crossing that the Company could close at its pleasure.

The principal highway serving the Winkler area in an east-west direction is Provincial Trunk Highway No. 14, some distance north of the railway and north also of the Loewen Development hereinafter referred to. The main business and commercial area of the Town is immediately south of the railway and Main Street runs through it. Opposite Main Street and north of the railway is a large block of land that is being developed by the owners for commercial, industrial and residential use. One of the owners, Mr. E.B. Loewen, appeared at the hearing and outlined the development of the land and gave other pertinent information as to its use and potentialities and otherwise in respect of it. I shall refer to this land as the Loewen Development. It is bounded on the east by P.T.H. No. 32; on the west, by West Street; on the north by P.T.H. No. 14 and on the south by North Railway Avenue. Already constructed, or in the course of being constructed on this land, are a Curling rink, a 58-room school for 600 to 700 pupils, which faces on the proposed Main Street extension, and several small industries facing on P.T.H. No. 32.

What the Town wants is to construct Main Street across the railway property to connect the area south of the railway with the Loewen Development and to extend Main Street through that land to P.T.H. 14. The extension of the street through the Loewen Development to connect with P.T.H. No. 14 appears to be contingent on the establishment of the crossing.

Winkler has a population of about 2,800 persons. It is an expanding town, shown by the fact that its population has more than doubled in the last twenty years and its assessment has risen from under half a million dollars in 1946 to four million dollars in 1966.

It is the school, social and industrial centre of the surrounding agricultural area.

I am satisfied that the extension of Main Street as proposed across the railway into the Loewen Development would assist the future growth, expansion and development of the town and is desirable in that respect.

Among parties supporting the application for the crossing at the hearing were:

The Town's Advisory Planning Commission,

Garden Valley School, Division No. 26,

Winkler Chamber of Commerce,

Winkler Co-Operative Elevator Association, and

Mr. J.M. Froese, M.L.A., representing the Credit Union Society.

The Board's power to give leave to carry Main Street across the land of the railway company:

Canadian Pacific objects to the crossing on legal and factual grounds.

The company contends that even if the Board has power under the Railway Act to grant leave to construct a street across a railway right-of-way, it does not have power to grant leave to construct Main Street across the company's station grounds and industrial land or land that is not railway right-of-way. No jurisprudence on this point was cited by Counsel for Canadian Pacific or Counsel for the Town.

There is no road allowance or any reservation of a road allowance across the railway property. The plan of the railway property registered in the Winnipeg Land Titles Office shows "right-of-way and station grounds", consisting apparently of 150 feet on each side of the centre line of the railway right-of-way. Counsel for Canadian Pacific referred to the railway property as a right-of-way with a width of 100 feet and an extension of the station grounds a further 100 feet on each side of the right-of-way. The land on each side of the right-of-way was also referred to as industrial land on the company's trackage. Some of it is leased to industries using the railway facilities at that location. The Commissioners who heard the application visited the location. We saw a collection of tracks, the station premises, elevators, sheds and other buildings that were serving or served by the railway facilities. We saw no separation of right-of-way from the other land of the railway company. It appeared to be all one parcel of land used in connection with the operation of the railway and the provision and use of railway facilities and service.

Section 259 of the Railway Act provides that the Board may grant an application for leave to construct a highway across a "railway". The word "railway" is defined in section 2(21) of the Railway Act, as follows:

"(21) 'railway' means any railway that the company has authority to construct or operate, and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property real or personal and works connected therewith, and also any railway bridge, tunnel or other structure which the company is authorized to construct; and, except where the context is inapplicable, includes street railway and tramway;"

The above definition is to be invoked only in so far as the Act applies and not if the context otherwise requires. The meaning of the word "railway" is not necessarily the same in all sections of the Act. Its meaning in a particular provision is to be gathered from the language used and the objects in view in that provision.

In *City of St. Thomas vs. Grand Trunk Railway Co.* (13 CRC 134), the City applied for leave to carry a street across lands of the railway company. The street was not opened up as far as the railway right-of-way. A block of land owned by the company lay between the terminus of the street and the right-of-way. The application was refused by the Board on the grounds that the crossing would be dangerous, but on the questions of the Board's power to grant the application, Chief Commissioner Mabee referred to the above quoted definition and stated:

"There is, therefore, power to authorize the construction of a highway through any land a railway company might acquire for use in connection with its undertaking; and the Board probably has jurisdiction to compel the company to abandon this property for round house purposes, and permit the city to extend this street through it."

Commissioner McLean questioned whether the Board had the power to grant leave to carry a highway over land of a railway company other than its right-of-way.

In *Montreal Trust Company vs. C.N.R.*, 50 CRTC 1, at p. 8, the Judicial Committee of the Privy Council said:

"'Railway' is defined by the Act (s. 2(21)) in such a way as to restrict its meaning, unless the context otherwise requires, to the track and its physical appurtenances."

The Judicial Committee also considered this definition in *C.P.R. vs. Attorney General of British Columbia*, 64 CRTC 266, at 281, and stated in part as follows:

"In both the Railway Act, 1919 and the Railway Act, 1927, s. 2(21) provides that unless the context otherwise requires: 'Railway' means any railway which the company has authority to construct and operate, and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property real or personal and works connected therewith, and also any railway bridge, tunnel or other structure which the company is authorized to construct; and, except where the context is inapplicable, includes street railway and tramway."

"It was argued that the Empress Hotel falls within the scope of this definition of railway and therefore within the scope of the declaration in s. 6(1)(c). In their Lordships' judgment that is not so. The fact that it was thought necessary to specify such things as sidings, stations, railway bridges and tunnels as being included in the definition of 'railway' indicates that the word 'railway' by itself cannot have been intended to have a very wide signification; and in their Lordships' view there is nothing in the definition to indicate that it was intended to include anything which is not

a part of or used in connection with the operation of a railway system. The appellant founded on two general phrases which occur in the definition – ‘property real or personal and works connected therewith’, and ‘other structure which the company is authorized to construct’. With regard to the first of these phrases their Lordships are of opinion that the words ‘connected therewith’ qualify the whole phrase and refer back to the preceding words and therefore property which is not connected with the railway system is not included: with regard to the second phrase the context shows that these words were not intended to bring in structures which have no connection with a railway system merely because a railway company was authorized to construct them. The appellant is authorized by the Canadian Pacific Railway Act, 1902, to carry on a variety of undertakings including mining, electricity supply and irrigation: it cannot have been intended that structures erected solely for the purposes of these undertakings and having no connection with the railway system should be included within this definition of ‘railway’. Accordingly the Empress Hotel could only come within the scope of the definition if it could be regarded as connected with the appellant’s railway system or railway undertaking.”

In my opinion the word “railway” in section 259 includes the right-of-way, the station grounds and the other described land of the railway company in Winkler across which the Town seeks leave to carry Main Street, and the Board has power to grant such leave. My decision in this respect has application only to the particular land in Winkler.

Disadvantages of the crossing to the Company:

The company claims that the establishment of the crossing will make unavailable for industry the portion of railway land that the crossing will occupy and that the crossing will also prevent extension of trackage from either end of the railway yard and impede switching of cars.

There is no doubt that the company’s use of the land available for industry will be restricted by the crossing and that switching and other train movements over the crossing will not be as free as they would be if there were no crossing. However, in my opinion, those disadvantages to the company do not outweigh the benefit of the crossing to the Town, nor do they afford a sufficient reason for refusing the crossing.

Hazards of the crossing and need for protection:

There will be restricted visibility at the crossing because of adjacent buildings and the presence of freight cars, either spotted or during movement at elevators and industrial plants. Train movements through Winkler normally are one freight train daily plus switching and an additional train daily during the beet loading period. The speed of trains over the crossing is slow. If Mair

Street is extended as planned, it will become a main artery and the crossing will be extensively used by highway traffic. There is no doubt that it will have to be protected by automatic lights and bell. For safety reasons there must be installation of such protection before the crossing is opened to highway traffic. A preliminary estimate of the cost of such protection was offered by the company at the hearing. It was about \$16,000 for installation and \$650 annually for maintenance.

In answer to questions in this respect at the hearing, I outlined briefly that if an entirely new crossing is being established, no money can be granted from The Railway Grade Crossing Fund towards the cost of installing automatic protection, because the Fund is by law only available for such protection in respect of existing crossings; that where such protection is installed in circumstances that warrant a grant from the Fund, 80% of the cost of installation is paid by the Fund, the railway company bears 7½% of the cost and the highway authority bears 12½%; and that the cost of maintenance is borne 50% by the railway company and 50% by the highway authority.

The Mayor of the Town subsequently wrote on October 29 that the Town Council would be willing to absorb 12½% as its share of the cost of installation of the automatic protection.

By virtue of section 259 of the Railway Act the Board may grant leave to construct a highway across a railway. Under section 260, where there already is an existing crossing of a railway and highway, the Board may enquire into all matters in respect of the crossing and may make such order as to the protection, safety and convenience of the public as it deems expedient and may order that such measures be taken as appear to the Board to be best adapted to remove or diminish danger or obstruction. Work done pursuant to an order made under this section may qualify for a grant from The Railway Grade Crossing Fund subject to the limitations in section 265 governing the use of the Fund. One of such limitations is the requirement that to qualify for assistance from the Fund, the protection ordered by the Board must be in respect of an existing crossing.

I think that it would be unrealistic to regard the construction of the proposed Main Street crossing or the installation of the protection at that crossing as a work in respect of an existing crossing. This is so whether the 6th Street crossing is a private crossing that the railway company may close at its will or whether it has become a de facto public crossing. Consequently, as such protection is not work ordered in respect of an existing crossing, the Board cannot grant any money from The Railway Grade Crossing Fund towards the cost of such protection.

Where a new crossing is to be established and it does not qualify for a grant from the Fund, the cost of construction and the cost of any protection necessary at such new crossing when it is opened for traffic is borne by the party that

establishes the crossing, be it the railway company or the highway authority, as the case may be. This is a long standing rule uniformly applied by the Board throughout Canada. Consequently, if the Town establishes the proposed crossing, the cost of its construction and the cost of installing and maintaining protection will have to be borne by the Town. Whether the long term benefit of the crossing to the Town will more than compensate for the burden of such cost is a matter for consideration primarily by the Town authorities.

The beet loading operation:

Immediately east of the proposed crossing there is a beet loading installation owned by the Manitoba Sugar Company. Beets are received by truck and loaded into railway cars there. The operation involves use of a cross-over track and pulling of railway cars, one or two at a time, over such track by a tractor operated by employees of the Sugar company. The period of beet loading is about five weeks, commencing the last week of September and running through most of October, with a peak of about three weeks within that period. Loadings in the past three years have been from 325 to 425 cars per year and from 20 to 30 per day in the peak period of three weeks.

There was apparent at the hearing a desire on the part of the Town that the beet loading operation be moved elsewhere.

On behalf of the Sugar Company, it was said that the loading operations could not be carried on at the present location if the crossing is established and the beet cars are not allowed to move over the tracks on the crossing. The Town has indicated its willingness to close the crossing during the beet loading period each year. The Town is not willing to contribute any money towards the cost of moving the facilities and also takes the position that it has no power to so contribute. Evidence was given that the cross-over track was constructed in 1958 at a cost to the Sugar Company of over \$4,000 and that to move the loader would cost at least \$12,000, exclusive of the cost of acquiring the necessary land. Canadian Pacific estimated that the cost of providing trackage for the beet loading operation outside of Winkler would cost \$38,000.

I would not order the beet loading facility to be removed from its present location at the expense of the Manitoba Sugar Company or Canadian Pacific.

Movements of beet cars over the crossing during the loading period of the year are frequent and slow and such movements by the present method of pulling the cars by tractor would be incompatible, in my opinion, with highway traffic movements on a busy street at times when it is open to highway traffic. It may be that at some future date the beet loading operation will be removed by mutual agreement of the interested parties. Meanwhile, its continued presence during a short period of the year should not stand in the way of the establishment and use of the crossing for the remainder of the year. The Town's proposal to close

the crossing during the beet loading period and have it open during the remainder of the year is not unreasonable. In the circumstances, any leave the Board may give to establish the crossing at this time will be subject to a condition limiting its use for highway vehicular and pedestrian traffic to the period in each year when beet loading operations are not usually being conducted, namely, from January 1st to September 20th and from October 31st to December 31st; and an undertaking by the Town of Winkler to erect barriers to physically close the crossing to such traffic during the said beet loading period in each year; and an agreement between the Town and Canadian Pacific or an Order of the Board in absence of such agreement, permitting the public to use 6th Street crossing during the said beet loading period each year. If the beet loading facilities are removed at some future time, it will then be in order to request the removal of these conditions.

Spotting and Movement of Grain Cars:

From what was submitted to the Board, it was not clear that spotting and moving of grain cars will not be interfered with by the establishment of the crossing. Spotting space will be more restricted than it is now; and, as in the case of beet cars, movements of grain cars over the crossing by means of car pullers or tractors operated by elevator employees would be incompatible with highway traffic movements over the crossing, unless adequate measures are taken to prevent highway motor vehicular traffic and pedestrians from entering the crossing while a grain car is being moved over the crossing by other than railway employees.

I have dealt with the principal issues. There are other minor problems, such as the suggested removal of a coal shed owned by Stanley Consumers' Co-Operative and control of use of the 6th Street crossing with the objective of making available more space for grain cars. I think that these lesser problems are capable of satisfactory adjustment by the exercise of reasonable good will and co-operation on the part of the parties affected. The Town authorities and others supporting the application for the crossing did not regard those problems as serious or unsurmountable.

Conclusion

I would at this time approve, in principle, of the establishment of the crossing, subject to the limitations and conditions I have set forth. If the Town decides to establish the crossing on that basis, including the bearing by the Town of the cost of protection, and if satisfactory arrangements can be made for movement of grain cars safely over the crossing, the Board will take

further appropriate steps leading to an Order giving leave to establish the crossing.

(Sgd.) ROD. KERR

"I concur".

(Sgd.) J.E. DUMONTIER

(Sgd.) W.R. IRWIN

December 30, 1966.

PAMPHLET NO. 32



DECEMBER 1966

Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

ORDER NO. 122842

FRIDAY, THE 2ND DAY OF
DECEMBER, A.D. 1966

ROD. KERR, Q.C.,
Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF *Vote 84a of
the Supplementary Estimates (A)
1966-67:*

File No. 48771.3

WHEREAS *Vote No. 84a* of the Supplementary Estimates (A) for the fiscal year ending March 31, 1967, is as follows:

Vote 84a — To provide for balance of payments to companies subject to Order Number 96300, dated November 17, 1958, of the Board of Transport Commissioners for Canada in respect of the period of April 1, 1965 to March 31, 1966, payable to said companies for such diminution in their aggregate gross revenues during the said period as in the opinion of the said Board is attributable to such companies maintaining the rate level for freight traffic at an 8% increase instead of 17% as authorized by the said Order.....\$600,000

AND WHEREAS the Board advised said companies, by letter dated June 23, 1966, that the deadline for receipt of claims for the period ended March 31, 1966, was July 31, 1966.

AND WHEREAS the deadline has now passed and the Board has determined that the total balance of claims of said companies for the period ended March 31, 1966, is \$555,958.15.

AND WHEREAS eight twelfths of the said vote was authorized for payment by Appropriation Acts No. 7 and No. 8, 1966 and pro rata payments in the amount of \$399,990.00 were made in accordance with Board Orders No. 121541 dated August 2, 1966 and No. 122674 dated November 23, 1966.

AND WHEREAS the balance of the said vote has been authorized for payment by Appropriation Act No. 9, 1966.

THE BOARD THEREFORE DETERMINES AS FOLLOWS:

Final payments in respect of claims for the period ending March 31, 1966, shall now be made to the companies and in the amounts set out hereunder:

	Amount of Payment
(1) Canadian Pacific Railway Company	\$ 90,178.34
(2) Canadian National Railways	53,835.75
(3) Northern Alberta Railways	4,698.21
(4) Algoma Central Railway Company	2,173.21
(5) Midland Railway Company of Manitoba	1,635.16
(6) Toronto, Hamilton and Buffalo Railway Company	1,242.77
(7) Chesapeake & Ohio Railway Company	907.88
(8) New York Central System	811.60
(9) Canada and Gulf Terminal Railway	309.36
(10) Great Northern Railway Company	130.27
(11) Napierville Junction Railway Company	45.60
	<u>\$155,968.15</u>

(SGD) ROD KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122872

TUESDAY, THE 6TH DAY OF
DECEMBER, A.D. 1966

H.H. GRIFFIN,
Asst. Chief Commissioner.
W.R. IRWIN,
Commissioner.
A.S. KIRK,
Commissioner.

IN THE MATTER OF the application of November 14, 1966, of British Columbia Telephone Company under the provisions of Chapter 66 of the Statutes of Canada, 6-7 Geo. V, as amended by Chapter 36 of 4-5 Geo. VI, Chapter 86 of II Geo. VI, Chapter 85 of 15 Geo. VI, Chapter 4 of 6 Eliz. II and Chapter 66 of 8-9 Eliz. II for an Order approving the agreements whereby British Columbia Telephone Company proposes to purchase the ordinary shares of Okanagan Telephone Company (herein and sometimes called the "common shares") from the holders thereof:

File No. 29885.13

UPON HEARING the application at the sittings of the Board, held at Ottawa on the 5th day of December, 1966, in the presence of Counsel for the Applicant and no one appearing in opposition; AND UPON HEARING what was alleged; AND UPON READING WHAT has been filed in support of the application, public notice of such application having been published in The Canada Gazette in conformity with the requirements of the Rules of Practice of the Board, and it appearing that the approval sought is necessary for the purpose of enabling the Applicant to acquire common shares of Okanagan Telephone Company in the interests of the undertaking of the Applicant and the Board being satisfied that the application should be granted;

IT IS ORDERED that approval be and it is hereby given to the agreements whereby British Columbia Telephone Company proposes to purchase from the holders thereof common shares of Okanagan Telephone Company for the price of \$27.30 per share in accordance with the terms and conditions of those certain Offers dated October 15, 1966, made by British Columbia Telephone Company and forwarded to holders of the common shares of Okanagan Telephone Company and in accordance with the terms and conditions contained in those certain

letters of Acceptance and Transmittal forwarded by the holders of common shares of Okanagan Telephone Company to the Canada Trust Company at Vancouver, British Columbia, pursuant to such Offers.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122874

**TUESDAY, THE 6TH DAY OF
DECEMBER, A.D. 1966**

H.H. GRIFFIN,
Asst. Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian Freight Asso-
ciation, under the provisions of
Part III of General Order No. T-1,
for approval of Supplement No. 2
to Canadian Freight Classification
No. 22, C.T.C. (F) No. 1740, on
file with the Board under file No.
49281.2:*

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The said Supplement No. 2 to Canadian Freight Classification No. 22, C.T.C. (F) No. 1740, on file with the Board under file No. 49281.2, is approved.

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122889

THURSDAY, THE 8TH DAY OF
DECEMBER, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

*IN THE MATTER OF the applica-
tion of the Canadian National Rail-
ways for authority to abandon their
Lemoyne Spur from mileage 0.00 to
mileage 1.65, in the Province of
Quebec, a distance of 1.65 miles:*

File No. 39310.152

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian National Railways are authorized to abandon their Lemoyne Spur from mileage 0.00 to mileage 1.65, in the Province of Quebec, a distance of 1.65 miles.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122903

FRIDAY, THE 9TH DAY OF
DECEMBER, A.D. 1966

H.H. GRIFFIN,
Asst. Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF changes in
rate grouping of certain telephone
exchanges of the Canadian National
Telecommunications:*

File No. 46638.4

UPON consideration of the reports filed herein, copies thereof having been delivered in accordance with the provisions of Board's General Order No. T-41, and no representations having been made by the parties to whom the said copies were so delivered—

IT IS HEREBY ORDERED AS FOLLOWS:

Effective on not less than thirty days' notice by appropriate tariff amendments, Canadian National Telecommunications shall transfer each of the exchanges listed hereunder from the Exchange Rate Group to which it was assigned, to the Exchange Rate Group to which it is now assigned, as hereinafter stated:

<u>Exchange</u>	<u>Present Exchange Rate Group No.</u>	<u>Transfer to Exchange Rate Group No.</u>
Badger, Nfld.	1	2
Burgeo, Nfld.	1	2
La Scie, Nfld.	1	2
Tilt Cove, Nfld.	1	2

(SGD) H.H. GRIFFIN,
Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122908

MONDAY, THE 12TH DAY OF
DECEMBER, A.D. 1966

H.H. GRIFFIN,

Asst. Chief Commissioner.

A.S. KIRK,

Commissioner.

IN THE MATTER OF the application of the Canadian Freight Association, on behalf of the Canadian National Railways and The Chesapeake and Ohio Railway Company, under section 353 of the Railway Act, for authority to publish new items in Canadian National Railways Tariff No. C.U. 120, C.T.C. (F) No. E. 1704, and Chesapeake and Ohio Railway Company Tariff 2878-C, C.T.C. (F) No. 943, of 118 cents per 100 pounds, carload minimum weight 40,000 pounds, and 96 cents per 100 pounds, carload minimum weight 80,000 pounds, both rates including all increases, applying on Waste Catalyst Material, in packages, subject to a released valuation not exceeding 50 cents per pound, from Sarnia, Ontario, to Omaha, Nebraska:

File No. 40615

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Canadian National Railways and The Chesapeake and Ohio Railway Company are authorized to publish rates of 118 cents per 100 pounds, carload minimum weight 40,000 pounds, and 96 cents per 100 pounds, carload minimum weight 80,000 pounds, both rates including all increases, on Waste Catalyst Material, in packages, from Sarnia, Ontario, to Omaha, Nebraska, subject to a released valuation not exceeding 50 cents per pound.

(SGD) H.H. GRIFFIN,

Assistant Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 122927

WEDNESDAY, THE 14TH DAY OF
DECEMBER, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company", for authority to abandon that portion of its Montreal — Ottawa Subdivision between Ottawa Union Station, Ottawa, Ontario, mileage 87.7 and Hull, Quebec, mileage 89.3, a distance of 1.6 miles:

File No. 39309.83

UPON reading the submissions filed—

IT IS HEREBY ORDERED AS FOLLOWS:

The Applicant Company is authorized to abandon that portion of its Montreal — Ottawa Subdivision between Ottawa Union Station, Ottawa, Ontario, mileage 87.7, and Hull, Quebec, mileage 89.3, a distance of 1.6 miles.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 122928

WEDNESDAY, THE 14TH DAY OF
DECEMBER, A.D. 1966

J.E. DUMONTIER,
Deputy Chief Commissioner.
W.R. IRWIN,
Commissioner.

IN THE MATTER OF the application of the Canadian National Railways, hereinafter called the "Applicants", for a three-year exemption from the requirements of General Order No. 0-25 with respect to the proposed horns on Turbo-trains:

File No. 31430.30.1

WHEREAS the Applicants intend to operate certain Turbo-trains that are not equipped with multi-tone horns for a period of three years;

AND WHEREAS General Order No. 0-25 requires that all motive power units in road service operating in Canada shall be equipped with such multi-tone horns—

IT IS HEREBY ORDERED AS FOLLOWS:

1. For a period of three years from the date of this Order, the Applicants are exempted from the following requirements of General Order No. 0-25 with respect to Turbo-trains:

"Motive Power "A" units operated regularly or temporarily in road service, including road-switching units, shall be equipped with horns having tonal characteristics simulating the sound of conventional steam locomotive whistles. The horns shall be tuned in chords of not less than three tones to produce a harmonious sound."

2. Turbo-trains shall be equipped with not less than four horns, two at the front and two at the rear of the train, having sound emissions and tonal characteristics equal to those horns tested on November 17, 1966, on the Applicants' lines between Montreal and St. Johns, Quebec. The four such horns shall be so connected that on sounding the horns on the leading unit of the trains, the horns on the trailing unit will be simultaneously sounded.

(SGD) J.E. DUMONTIER,
Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 123027

**THURSDAY, THE 22ND DAY OF
DECEMBER, A.D. 1966**

ROD KERR, Q.C.,
Chief Commissioner,
A.S. KIRK,
Commissioner.

*IN THE MATTER OF increased
freight rates on coal and coke under
the Maritime Freight Rates Act
published and filed in tariffs to
become effective October 10-12,
1966:*

File No. 49277

WHEREAS the Canadian National Railways and the Canadian Pacific Railway Company filed amendments to their freight tariffs C.N. Rys. CTC(F) E.4073, CUC(F) E.4132, CTC(F) E.4014; and C.P. Ry. CTC(F) E.5181, CTC(F) E.3253, with the Board under sections 3 and 8 of the Maritime Freight Rates Act, subject to the provisions of subsection 3 of section 3 thereof to become effective October 10, 1966; and The Cumberland Railway Company filed its freight tariffs CTC-11 and CTC-12 to become effective October 12, 1966;

AND WHEREAS the board upon investigation and consideration of the application of the above-named tariffs finds that the increased rates on coal and coke contained therein are not consistent with the said Act.

IT IS HEREBY ORDERED AS FOLLOWS:

1. The tariff schedules listed in paragraph 2 hereof are disallowed as inconsistent with the Maritime Freight Rates Act.

2. Canadian National Railways

Supplement No. 110 to CC-250-1, CTC(F) E.4073

Supplement No. 4 to CC-117-4, CTC(F) E.4132

Item Nos. 210, 220, 222, 223, 223½, 224, 225, 232 and 233 on 32nd Revised
Page 14-A and 10th Revised Page 14-B of CM-300-15, CTC(F) E.4014.

Canadian Pacific Railway Company

Item No. 1412 on 11th Revised Page 112 of E.1355-F, CTC(F) E.5253.

Item Nos. 940, 1000 and 1120 of 22nd Revised Page 49;

15th Revised Page 50 and 5th Revised Page 55 of No. E.1360-B,
CTC(F) E.5181.

The Cumberland Railway Company

Tariffs No. 4-A, CTC-11 and 3-A, CTC-12.

(SGD) ROD KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

ORDER NO. 123045

THURSDAY, THE 29TH DAY OF
DECEMBER, A.D. 1966

ROD KERR, Q.C.,

Chief Commissioner.

J.E. DUMONTIER,

Deputy Chief Commissioner.

A.S. KIRK,

Commissioner.

IN THE MATTER OF the accident which occurred on October 12, 1965, at the crossing of the Canadian National Railways and Romeo Street, in the City of Stratford, Province of Ontario, mileage 87.95 Guelph Sub-division:

AND IN THE MATTER OF General Order No. 0-1 declaring accident reports or information respecting same furnished the Board by any railway company and the report of any person appointed by the Board to enquire into and report upon accidents, etc., to be privileged:

*File No. 12458
Case No. 674*

WHEREAS pursuant to section 288 of the Railway Act accidents attended with personal injury must be reported to the Board with full particulars; and

WHEREAS by the same section of the Railway Act the Board may by regulations declare the manner and form in which such information and notice shall be given, the class of accidents to which the section applies and may declare any such information so given to be privileged; and

WHEREAS by General Order No. 0-1 the Board has made such regulations and has declared to be privileged every accident report or information respecting the same furnished the Board by any railway company pursuant to the provisions of the Railway Act and of that order, and the report of any person appointed by the Board to enquire into and report upon any accident or casualty occurring on any railway, and has directed that such information shall only be made public or given out by Order of the Board; and

WHEREAS Mr. Arthur G. Goodwin, Solicitor for the father of Wayne Lemon, and his son, Wayne injured in the said accident, has applied to the Board for the release of the Canadian National Railways' report on the said accident;

UPON consideration of the said application and of the special circumstances surrounding this particular case –

IT IS HEREBY ORDERED AS FOLLOWS:

The information contained in the report made by E. Kent for the Manager, London Area of the Canadian National Railways, dated October 14, 1965, on file with the Board under file No. 12458, and the information contained in the report of W.J. Rupert, District Inspector for the Board of Transport Commissioners for Canada, dated Toronto, Ont., 26 November, 1965, also on file with the Board under file No. 12458, may be given out.

(SGD) ROD KERR,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

ORDER NO. 123051

FRIDAY, THE 30TH DAY OF
DECEMBER, A.D. 1966.

ROD KERR, Q.C.,
Chief Commissioner.
A.S. KIRK,
Commissioner.

*IN THE MATTER OF amendments
to Canadian National Railways'
Tariff C.T.C. (F) No. E. 3867 and
Canadian Pacific Railway Company's
C.T.C. No. E. 5172, filed to become
effective January 2, 1961, applying
on bulk grain, carloads, for export;*

*AND IN THE MATTER OF Orders
of the Board —*

*No. 103860, dated February 23, 1961;
No. 104138, dated March 30, 1961;
No. 104942, dated July 3, 1961;
No. 106616, dated December 21, 1961;
No. 108242, dated June 28, 1962;
No. 109970, dated December 27, 1962;
No. 111531, dated June 20, 1963;
No. 112879, dated December 20, 1963;
No. 114659, dated June 9, 1964;
No. 116361, dated December 24, 1964;
No. 117848, dated June 25, 1965;
No. 119390, dated December 21, 1965;
and No. 121239, dated June 29, 1966:*

File No. 17112.49

WHEREAS Order in Council P.C. 1966-2460, dated the 29th day of December, 1966, further extends until June 30, 1967, the suspension of paragraph No. 2 of Order No. 103860 of the Board of Transport Commissioners for Canada dated February 23, 1961 —

IT IS HEREBY ORDERED AS FOLLOWS:

1. The said tariff amendments filed by the railways pursuant to the said Order No. 103860 are further suspended until June 30, 1967.

2. During such suspension the railways shall continue the "at-and-east" rates on bulk grain for export that were in effect on November 30, 1960.

(SGD) ROD KERR,
Chief Commissioner,

The Board of Transport Commissioners for Canada.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, OCTOBER, 1966

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents.....	262	10	265
Level Crossing Accidents.....	41	31	83
	<u>303</u>	<u>41</u>	<u>348</u>

	<u>Killed</u>	<u>Injured</u>
Passengers.....	1	73
Employees.....	3	185
Others.....	37	90
	<u>41</u>	<u>348</u>

Of the 41 accidents at Highway Crossings, 34 occurred where standard railway crossing signs are located, 7 where additional forms of protection are in use, 21 after Sunrise and 20 after Sunset.

OTTAWA, ONT.

**ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
NOVEMBER, 1966**

	<u>Accidents</u>	<u>Killed</u>	<u>Injured</u>
Railway Accidents	281	10	286
Level Crossing Accidents.....	48	24	76
	<u>329</u>	<u>34</u>	<u>362</u>

	<u>Killed</u>	<u>Injured</u>
Passengers.....	—	65
Employees	2	225
Others.....	32	72
	<u>34</u>	<u>362</u>

Of the 48 accidents at Highway Crossings, 32 occurred where standard railway crossing signs are located, 16 where additional forms of protection are in use, 23 after Sunrise and 25 after Sunset.

OTTAWA, ONT.

SUMMARY OF ORDERS ISSUED BY THE BOARD

(*Denotes Order printed in full)

- 22768 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Third Line, in Oakville, Ont., mileage 24.42 Oakville Subd.
- 22769 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and McCowan Road, Twp. of Scarborough Ont. mileage 323.63 Kingston Subd.
- 22770 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and 8th Line Road, Town of Oakville, Ont. mileage 20.55 Oakville Subd.
- 22771 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Golf Club Road, in the Twp. of Scarborough, Ont. mileage 321.87 Kingston Subd.
- 22772 November 29 – Authorizing the Alberta Department of Highways to construct an overhead bridge to carry Highway No. 2 across and over the N.A.R. in the SW¼ of Sec. 32, Twp. 83, Rge. 21, W5M in Peace River, Alta.
- 22773 November 29 – Amending Order 112367 which authorized the C.N.R. to operate over their branch line commencing at mileage 72.02 Kiask Falls Subd. and extending in a northwesterly direction to Mattagami Lake Mines, Dist. of Abitibi, P.Q.
- 22774 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and 4th Line Road, near Oakville, Ont. mileage 23.13 Oakville Subd.
- 22775 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Town Line West, east of Oakville, Ont. mileage 17.93 Oakville Subd.
- 22776 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Lorne Park Road, in Lorne Park, Ont. mileage 15.06 Oakville Subd.
- 22777 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Midland Avenue, Twp. of Scarborough Ont. mileage 324.98 Kingston Subd.
- 22778 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Appleby Line Road, at Burlington, Ont., mileage 28.25 Oakville Subd.

- 122779 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Walker's Line Road at Burlington, Ont., mile 29.53 Oakville Subd.
- 122780 November 29 – Approving tariffs and supplements to tariffs filed by the C.N.R. under section 3 of the M.F.R.A.
- 122781 November 29 – Approving the changes to the automatic protection at the crossing of C.N.R. and Rosebank Road, at Pickering, Ont., mileage 315.95 Kingston Subd.
- 122782 November 29 – Approving changes to the automatic protection at the crossing of C.P.R. and Heron Road, City of Ottawa, Ont. mileage 1.0 Erwood Spur.
- 122783 November 29 – Authorizing the C.P.R. to operate on the subway structure carrying its railway across and over Don Mills Road, Twp. of North York, Ont., at mileage 204.36 Belleville Subd.
- 122784 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Pape Avenue, City of Toronto, Ont., mileage 330.96 Kingston Subd.
- 122785 November 29 – Approving changes to the automatic protection at the crossing of C.N.R. and Poplar Road, Twp. of Scarborough, Ont., mileage 320.65 Kingston Subd.
- 122786 November 29 – Approving the location of flammable liquid bulk storage and transfer facilities of Imperial Oil Limited at Redwater, Alta., near mileage 29.4 Coronado Subd. C.N.R.
- 122787 November 29 – Dismissing C.P.R. application for authority to remove the station agent and appoint a caretaker at Gronlid, Sask.
- 122788 November 29 – Authorizing the C.P.R. to remove the agent-operator and station building at Nemegos, Ont. mileage 121.4 Nemegos Subd.
- 122789 November 29 – Authorizing the C.P.R. to remove the station agent and to appoint a caretaker at Qualicum Beach, B.C. mileage 101.8 Victoria Subd.
- 122790 November 29 – Authorizing the C.N.R. to temporarily close the station at Sundridge, Ont.
- 122791 November 29 – Authorizing the C.P.R. to remove the station agent and the station building at Debec Junction, N.B. mileage 40.4 Shogomoc Subd.
- 122792 November 29 – Approving tariffs filed by the C.P.R. under Sections 3 and 8 of the M.F.R.A.

- 122793 November 30 – Approving changes to the automatic protection at the crossing of C.N.R. and Ogden Avenue, west of Long Branch, Ont. mileage 10.85 Oakville Subd.
- 122794 November 30 – Approving changes to the automatic protection at the crossing of C.N.R. and Clarkson Road in Clarkson, Ont. mileage 16.09 Oakville Subd.
- 122795 November 30 – Approving changes to the automatic protection at the crossing of C.N.R. and Kerr Street in Oakville, Ont. mileage 21.96 Oakville Subd.
- 122796 November 30 – Approving changes to the automatic protection at the crossing of C.N.R. and Haig Boulevard, Twp. of Toronto, Ont., County of Peel, mileage 10.59 Oakville Subd.
- 122797 November 30 – Authorizing the County of Hastings, Ont. to reconstruct County Road No. 10, (Boundary Road) across the C.N.R. in Conc. 1, Twp. of Tyendinaga, mileage 204.27 Kingston Subd. and authorizing the Railways to install automatic protection.
- 122798 November 30 – Authorizing the C.N.R. to operate over the pedestrian subway structure at Port Union, Ont. mileage 317.3 Kingston Subd.
- 122799 November 30 – Authorizing the Municipality of St. Jean Chrysostome, P.Q. to widen Commercial Street at the crossing of the C.N.R. mileage 223.79 Monk Subd. and authorizing the Railways to revise and relocate the protection.
- 122800 November 30 – Determining payment to companies as defined in the Freight Rates Reduction Act of \$118,750,000 under Vote 84c of the Supplementary Estimates (C) for the fiscal year ending March 31, 1967, as authorized by Appropriation Act No. 9, 1966. (See page 1315, 56 B.T.C.)
- 122801 November 30 – Approving changes to the automatic protection at the crossing of C.N.R. and Revus Avenue, east of the Village of Port Credit, Ont. mileage 12.02 Oakville Subd.
- 122802 November 30 – Approving changes to the automatic protection at the crossing of C.N.R. and Morningside Avenue, Twp. of Scarborough, Ont., mileage 320.41 Kingston Subd.
- 122803 November 30 – Approving plan for deviation of C.N.R. line bet. mileage 19.81 and mileage 20.45 Tonkin Subd., Man.
- 122804 November 30 – Amending Order 122566 which authorized the Q.C.R. to remove the caretaker-agent and station building at North Hatley, P.Q. mile 12.4 Newport Subd.

- 122805 November 30 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway at Courtland, Ont. mileage 85.85 Cayuga Subd.
- 122806 November 30 – Approving Supplement No. 11 to Traffic Agreement between The Bell Telephone Company of Canada and The Monk Rural Telephone Company Limited.
- 122807 November 30 – Approving new Traffic Agreement and Supplements Nos. 1, 2, 3 and 4 between The Bell Telephone Company of Canada and The Capital Telephone Company Limited.
- 122808 November 30 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Road No. 127, bet. Conc. 1 and 2, Twp. of Oneida Ont. mileage 25.44 Hagersville Subd.
- 122809 December 1 – Authorizing the C.N.R. to reconstruct the bridge carrying the single track of the Fergus Subd. across and over the highway at mileage 45.2 Fergus Subd., Twp. of Nichol, Ont.
- 122810 December 6 – Authorizing the C.P.R. to remove the caretaker at Oxdrift, Ont. mileage 69.9 Ignace Subd.
- 122811 December 1 – Extending the time within which the G.N.R. is required to install automatic protection at the crossing of its railway and Elevator Road, Dist. of Surrey, B.C. mileage 138.9 Third Subd.
- 122812 December 1 – Approving changes to the automatic protection at the crossing of C.N.R. and 9th Line Road in Oakville, Ont. mileage 19.25 Oakville Subd.
- 122813 December 1 – Allocating the balance of cost of reconstruction and maintenance of the subway at the intersection of the C.N.R. and Wellington Street, City of Montreal, P.Q. mileage 1.5 Hibernia Subd.
- 122814 December 1 – Authorizing The British American Oil Company Limited to construct 6 pipe lines to carry hydro carbon products across and under the C.N.R. Dobell Spur and a yard track commencing at H.B. mileage 4.14 Longue Pointe Subd; across and under the private siding serving Shawinigan Chemical commencing at H.B. mile 0.12 Montreal East Spur; and along and parallel to Montreal East Blvd. Spur commencing at H.B. mileage 3.64 Longue Pointe Subd., in Montreal East, P.Q.

- 122815 December 1 – Approving Supplements Nos. 3 and 4 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122816 December 1 – Approving supplement No. 3 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122817 December 1 – Approving Supplement No. 2 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122818 December 1 – Approving supplement No. 2 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122819 December 1 – Approving Supplement No. 2 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122820 December 1 – Approving supplements to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122821 December 1 – Approving tariff filed by D.A.R. under section 8 of the M.F.R.A.
- 122822 December 1 – Approving tariff filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 122823 December 1 – Approving tariff filed by the C.P.R. under sections 3 and 8 of the M.F.R.A.
- 122824 December 1 – Approving tariff filed by Cumberland Railway Company under section 8 of the M.F.R.A.
- 122825 December 1 – Approving tariff filed by the C.N.R. under Sections 3 and 8 of the M.F.R.A.
- 122826 December 1 – Approving supplement No. 2 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122827 December 1 – Approving supplement No. 4 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122828 December 1 – Amending Order 122000 assessing the cost and maintenance of the C.P.R. crossing at 17th Avenue, in B.C. mileage 99.7 Cascade Subd. on the B.C. Department of Highways.

- 122829 December 1 – Authorizing the C.N.R. to operate their engines, cars and trains over the pedestrian underpass at Eglinton Commuter Station, Ont. mileage 323.19 Kingston Subd.
- 122830 December 1 – Allocating the cost of construction of the overhead bridge carrying the highway across the C.N.R. in the SE¼, Sec. 3, Twp. 17 Rge. 26, W2M, Sask. mileage 38.14 Central Butte Subd. which was reserved by Order 120687.
- 122831 December 2 – Approving supplements Nos. 4 and 5 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122832 December 2 – Approving tariffs and supplement No. 5 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122833 December 2 – Approving supplement No. 8 to tariff filed by the Cumberland Railway Company under section 8 of the M.F.R.A.
- 122834 December 2 – Approving tariffs and supplements Nos. 1 and 2 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122835 December 2 – Approving changes to the automatic protection at the crossing of C.P.R. and Walkley Road, Ottawa, Ont. mileage 0.35 Ellwood Spur.
- 122836 December 2 – Authorizing the C.P.R. to remove the caretaker at Rockhaven, Sask. mileage 19.6 Lloydminster Subd.
- 122837 December 2 – Authorizing the C.P.R. to open for carriage of traffic the spur track commencing at mileage 74.60 Parry Sound Subd. and extending to a sand pit in Lot 22, Con. 13, Twp. of Mowat, Ont. and to protect the crossing at Pakasley Road by means of flagging.
- 122838 December 2 – Authorizing the C.P.R. to construct a branch line with sidings adjacent to its St. Luc Departure Yard, P.Q. mileage 1.80 Winchester Subd.
- 122839 December 2 – Authorizing the C.N.R. to construct a loading dock and a truck access ramp over their track No. 9 at Place Bonaventure, City of Montreal, P.Q.
- 122840 December 2 – Approving location of flammable liquid bulk marketing plant and transfer facilities of Alberta Co-Operative Limited at Beaverlodge, Alta. near mileage 78.4 Grande Prairie Subd. N.A.R.

- 122841 December 2 – Extending the time within which Northern Alberta Railways is required to locate the temporary loading facilities for crude oil and condensate at Hines Creek, Alta. near mileage 112.92 Peace River Subd.
- 122842 December 2 – Determining final payment of \$156,000 to companies as defined in the Freight Rates Reduction Act under Vote 84a of the Supplementary Estimates (A) for the fiscal year ending March 31, 1967 as authorized by Appropriation Act No. 9. (See page 1359, 56 B.T.C.)
- 122843 December 2 – Amending Order 121593 which authorized the City of Lauzon, P.Q. to widen Joliette Street where it crosses the C.N.R. at mileage 113.30 Montmagny Subd; and authorizing the Railways to install automatic protection at said crossing.
- 122844 December 2 – Authorizing the City of Regina, Sask. to widen and improve First Avenue at crossing of the C.P.R., mileage 0.82 Lanigan Subd.
- 122845 December 2 – Amending Order 118778 which authorized the Saskatchewan Department of Highways and Transportation to construct an overhead bridge to carry the eastbound lanes of Highway No. 1 across and over the C.P.R. in the NE¼ Sec. 36, Twp. 16, Rge. 24, W2M, mileage 119.11 Indian Head Subd.
- 122846 December 2 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from the crossing of their railway and the highway at mileage 63.86 Chatham Subd. to another crossing of their railway and the highway at mileage 1.98 Thorold Subd., Ont.
- 122847 December 2 – Authorizing the C.N.R. to relocate the reflectorized crossing signs from the crossing of their railway and Sixth Avenue in Senneterre P.Q. at mileage 137.52 Oskelano Subd. to another crossing of their railway and the highway at mileage 97.86 Val d'Or Subd., P.Q.
- 122848 December 2 – Authorizing the C.P.R. to replace existing steel span of the subway carrying Tanneries Street across and over its railway in the Village of Roxton Falls, County of Shefford, P.Q. mileage 35.6 Drummondville Subd.
- 122849 December 2 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and the siding tracks of C.N.R. at Newberry Street, City of Belleville, Ont. mile 91.61 Belleville Subd.

- 122850 December 2 — Authorizing the Ontario Department of Highways to widen Secondary Highway No. 614 at the crossing of the C.P.R. District of Thunder Bay, mileage 7.41 Manitouwadge Subd.
- 122851 December 2 — Authorizing the R.M. of Walpole No. 92, Sask. to reconstruct municipal road at the crossing of the C.N.R. bet. NW¼, Sec. 8 and SW¼ Sec. 17, Twp. 9, Rge. 32, W1M, mileage 13.66 Lampman Subd.
- 122852 December 2 — Approving changes to the automatic protection between mileage 357, and 340, Nfld. of the Quebec North Shore and Labrador Railway Company.
- 122853 December 2 — Authorizing the C.P.R. to construct a siding to serve Ontario Seed Cleaners and Dealers Ltd. across sideroad No. 15, in Twp. of Chinguacousy, County of Peel, Ont. mileage 11.33 Orangeville Subd.
- 122854 December 2 — Revoking Order 122137 which authorized the Department of Highways and Transportation of Saskatchewan to construct an overhead bridge to carry Highway No. 11 across and over the C.N.R. at mileage 185.22 Watrous Subd. (formerly mileage 56.2 Asquith Subd.) in the NE¼, Sec. 2, Twp. 36, Rge. 5, W3M, Sask.
- 122855 December 5 — Approving tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 122856 December 5 — Authorizing payment from the Railway Grade Crossing Fund towards the cost of placing reflective markings on the sides of certain railway cars of the C.P.R.
- 122857 December 5 — Approving less than standard overhead clearances on C.N.R. track serving Atlantic Sugar Refineries Company Limited at Saint John, N.B. commencing at mileage 2.1 Courtenay Bay Branch.
- 122858 December 5 — Authorizing the N.A.R. to construct a siding across the highway to serve British American Oil Co. Ltd. in the Town of Westlock, Alta. at chainage 3 + 67 commencing at mileage 51.82 Edmonton Subd.
- 122859 December 6 — Extending the time within which the C.N.R. is required to improve the automatic protection at the crossing of their railway and County Road No. 26, at Beamsville, Ont. mileage 23.21 Grimsby Subd.

- 122860 December 6 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and 50th St., City of Edmonton, Alta. mileage 125.03 Vegreville Subd.
- 122861 December 6 – Extending the time within which the C.P.R. is required to install automatic protection at the crossing of its railway and 8th Conc. Road, Twp. of Blenheim, Ont. mileage 73.40 Galt Subd.
- 122862 December 6 – Extending the time within which the C.P.R. is required to install automatic protection at the crossing of its railway and Richmond St., City of London, Ont. mileage 0.05 Windsor Subd.
- 122863 December 6 – Approving location of Shell Canada Ltd. proposed flammable liquid bulk storage and transfer facilities at Salmo, B.C. near mileage 164.6 Sixth Subd. G.N.R.
- 122864 December 6 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Hespeler St., at Didsbury, Alta. mileage 46.50 Red Deer Subd.
- 122865 December 6 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at mileage 32.12 Shaunavon Subd. Sask.
- 122866 December 6 – Approving tariffs filed by the C.N.R. under sections 3 and 8 of the M.F.R.A.
- 122867 December 6 – Approving tariffs filed by the D.A.R. under section 8 of the M.F.R.A.
- 122868 December 6 – Approving revisions to tariffs filed by The Bell Telephone Company of Canada.
- 122869 December 6 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. at Duffield, Alta. mileage 38.43 Edson Subd.
- 122870 December 6 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. at mileage 84.94 Vegreville Subd. Alta.
- 122871 December 6 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and Springfield Road, Man. mileage 2.97 Lac du Bonnet Subd.
- *122872 December 6 – Approving agreements whereby British Columbia Telephone Company proposes to purchase the ordinary shares of Okanagan Telephone Company from the holders thereof. (See page 1361, 56 B.T.C.)

- 122873 December 6 – Authorizing the C.N.R. to operate over the private siding serving the ordinance depot of the Department of National Defence (Army) which crosses 127th Ave., 129th Ave., 130th Ave., 132nd Ave., former 134th Ave. 134A Ave. and 137th Ave., City of Edmonton Alta.
- *122874 December 6 – Approving Supplement No. 2 to Canadian Freight Classification No. 22, C.T.C.(F) No. 1740 filed by the Canadian Freight Association under provisions of Part III of G.O. No. T-1. (See page 1363, 56 B.T.C.)
- 122875 December 7 – Approving changes to automatic protection at the crossing of C.P.R. and Coalier St., City of Hull, P.Q. mileage 0.81 Waltham Subd.
- 122876 December 7 – Authorizing the C.P.R. to operate on the subway at mileage 94.02 Indian Head Subd., Sask.
- 122877 December 7 – Approving changes to the automatic protection at the crossing of C.P.R. and Begin St., City of Hull, P.Q. mileage 0.90 Waltham Subd.
- 122878 December 7 – Authorizing changes to the signals on C.N.R. Newcastle Subd. bet. mileage 60.00 and 68.50 N.B.
- 122879 December 7 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. near Stoney Beach, Sask. mileage 21.18 Central Butte Subd.
- 122880 December 7 – Exempting the C.P.R. from erecting and maintaining fences on both sides of its Stewart Valley Subd. bet. mileages 2.24 and 3.05 Sask.
- 122881 December 7 – Authorizing the C.N.R. and the C.P.R. to operate through the interlocking at the crossing of their railways at Carlyle, Sask. mileage 36.7 Lampman Subd. of the C.N.R. and mileage 85.8 Arcola Subd. C.P.R.
- 122882 December 7 – Authorizing the C.N.R. to improve the automatic protection at the crossing of their railway and County Road No. 4 in Mallorytown, Ont. mileage 138.21 Kingston Subd.
- 122883 December 8 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway, being the first public crossing east of the station at Exira, Man. mileage 84.73 Rivers Subd.
- 122884 December 8 – Authorizing the C.N.R. and C.P.R. to operate through the interlocking at the crossing of their railways near Deer, Man. mileage 80.0 Rivers Subd. C.N.R. and mileage 3.1 Varcoe Subd. C.P.R.

- 122885 December 8 – Authorizing the C.P.R. to open for the carriage of traffic a branch line which forms a cross-connection 1.36 miles long bet. mileage 195.18 Belleville Subd. and 178.97 Havelock Subd. (formerly Oshawa and Peterboro Subds.), in Twp. of Scarborough, County of York, Ont.
- 122886 December 8 – Authorizing the C.N.R. to operate on the siding serving the Toronto Iron Works Ltd. which crosses a portion of Lakeshore Blvd., Toronto, Ont.
- 122887 December 8 – Authorizing the Township of Medonte, Ontario to widen Township Road and improve the sight lines at the crossing of the C.P.R. bet. Concs. 3 and 4, mileage 77.30 MacTier Subd.
- 122888 December 8 – Authorizing the C.N.R. to construct a ballast pit track across Range 9 Road, Twp. of Courville, County of Abitibi East, P.Q. mileage 0.06 commencing at mileage 4.59 Taschereau Subd.
- *122889 December 8 – Authorizing the C.N.R. to abandon their Lemoyne Spur from mileage 0.00 to mileage 1.65, P.Q. (See page 1364, 56 B.T.C.)
- 122890 December 8 – Authorizing the Quebec Department of Roads to reconstruct and improve the overhead bridge carrying Charest Blvd. Ouest across and over the tracks of the C.P.R., City of Quebec, P.Q. mileage 0.40 Wolfe's Cove Branch, and approving the temporary less than standard overhead clearances at said overhead bridge.
- 122891 December 8 – Requiring that all rail movements of the C.N.R. be brought to a stop and to provide protection by a member of the train crew at the crossing of their railway and Highway No. 2 at Deseronto, Ont. mileage 5.51 Deseronto Spur which joins the Kingston Subd. at mileage 199.10.
- 122892 December 8 – Approving changes to the signals at Cana Junction on C.N.R. Rivers Subd., Sask.
- 122893 December 8 – Approving location of additional flammable liquid transfer facilities of Imperial Oil Limited at Carseland, Alta. near mileage 144.86 Brooks Subd. C.P.R.
- 122894 December 9 – Authorizing the C.N.R. to operate their engines, cars and trains under the overhead bridge at mileage 34.53 Dundas Subd., Ont.

- 122895 December 9 – Authorizing the C.N.R. and the C.P.R. to operate their engines and trains through the interlocking at the crossing of their railways at Port Arthur, Ont. mileage 1.48 Kashabowie Subd. (C.N.R.) and mileage 130.1 Nipigon Subd. (C.P.R.)
- 122896 December 9 – Amending Order 117998 which authorized the City of Saskatoon to widen Twentieth St. at the crossing of the C.N.R. mileage 1.52 Warman Subd. and authorizing the C.N.R. to install automatic protection at said crossing.
- 122897 December 9 – Amending Order 104850 which authorized the County of Peel to reconstruct and improve the subway to carry Britannia Sideroad across and under the C.P.R. at mileage 21.44 Galt Subd., Ont.
- 122898 December 9 – Approving tariff filed by the D.A.R. under section 8 of the M.F.R.A.
- 122899 December 9 – Approving tariffs and supplements Nos. 2 and 3 to Agreed Charge tariff filed by the Canadian Freight Association under Sections 3 and 8 of the M.F.R.A.
- 122900 December 9 – Approving tariff and supplement No. 6 to tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122901 December 9 – Approving tariff and supplement No. 6 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122902 December 9 – Approving tariff and supplement No. 4 to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- *122903 December 9 – Approving changes in rate grouping of certain telephone exchanges of the C.N. Telecommunications. (See page 1365, 56 B.T.C.)
- 122904 December 9 – Amending Order 117184 which authorized the City of Saskatoon, Sask. to widen Dundonald Ave. at the crossing of the C.N.R. and the spur of the Saskatchewan Power Corporation, at mileage 190.71 Watrous Subd. and authorizing the C.N.R. to install automatic protection at said crossing.
- 122905 December 12 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway, east of Mitchell, Ont. mileage 12.03 Goderich Subd.

- 122906 December 12 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 122907 December 12 – Approving tariffs filed by the British Columbia Telephone Company.
- *122908 December 12 – Authorizing the C.N.R. and The C. & O. Rly. to publish rates of 118 cents per 100 lbs. carload minimum weight 40,000 lbs. and 96 cents per 100 lbs. carload minimum weight 80,000 lbs. from Sarnia, Ont. to Omaha Neb. U.S.A. (See page 1366, 56 B.T.C.)
- 122909 December 12 – Authorizing The Chesapeake and Ohio Railway Company to remove the station agent at Wheatley, Ont.
- 122910 December 12 – Authorizing the C.N.R. to construct two sidings serving S. McCord Ltd. across Bayview Avenue (formerly West Don Road) in City of Toronto, County of York, Ont., commencing at mileage 1.95 Bala Subd.
- 122911 December 12 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway, being the first crossing east of the station at Stratford, Ont. mileage 30.77 Drumbo Subd.
- 122912 December 12 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at Dagmar, Ont. mileage 161.08 Havelock Subd.
- 122913 December 13 – Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Stevens, Ont. mileage 59.8 Caramat Subd.
- 122914 December 14 – Approving Supplement No. 5 and No. 6 to Traffic Agreement between The Bell Telephone Company of Canada and The Glengarry Telephone Company Limited.
- 122915 December 14 – Rescinding Order 82347 which authorized a speed of ten miles per hr. for train movements over the crossing of The Vancouver and Lulu Island Railway Co. and 70th Ave. (S.W. Marine Drive), in the City of Vancouver, B.C.
- 122916 December 14 – Dismissing C.P.R. application for authority to remove the station agent and appoint a caretaker at Crystal Springs, Sask. mileage 77.1 Prince Albert Subd.
- 122917 December 14 – Authorizing the City of Waterloo, Ont. to improve the view lines at the crossing of the C.N.R. mileage 3.90 Waterloo Subd. (Elmira Branch).

- 122918 December 14 – Authorizing the C.N.R. to close the crossing of their railway and the highway in the City of Saskatoon, Sask. at mileage 2.78 Warman Subd.
- 122919 December 14 – Authorizing the C.N.R. to close the crossing of their railway and the highway in the City of Saskatoon, Sask. at mileage 3.41 Warman Subd.
- 122920 December 14 – Amending Order 117272 which authorized the installation of automatic protection at the crossing of the C.N.R. and the highway in Twp. of Fox, Ont. mileage 169.42 Taschereau Subd.
- 122921 December 14 – Authorizing the C.N.R. to make changes to the interlocking at the crossing of their railway and the C.P.R. near Morris, Man. mileage 0.22 Miami Subd. (C.N.R.) and mileage 41.0 LaRiviere Subd. (C.P.R.)
- 122922 December 14 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Cove Road, at Eel River Cove, N.B. mileage 157.97 Newcastle Subd.
- 122923 December 14 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Union Road, at Union Station, P.E.I. mileage 2.18 Souris Subd.
- 122924 December 14 – Authorizing the Quebec Department of Roads to widen and improve the north approach of Ste. Anne's Front Range Road at the crossing of the C.N.R. in St. Cajetan d'Armagh, P.Q. mileage 164.72 Monk Subd. and authorizing the Railways to install automatic protection at the said crossing.
- 122925 December 14 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Highway No. 17, at Tidehead, N.B. mileage 0.33 St. Quentin Subd. and to relocate the reflectorized signs to another crossing of their railway at mileage 51.00 Caraquet Subd.
- 122926 December 14 – Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Warwick P.Q.
- *122927 December 14 – Authorizing the C.P.R. to abandon that portion of its Montreal – Ottawa Subd. bet. Ottawa Union Station, Ottawa, Ont. mileage 87.7 and mile 89.3, Hull, P.Q., a distance of 1.6 miles. (See page 1367, 56 B.T.C.)

- 122928 December 14 – Exempting the C.N.R., for a three-year period, from the requirements of General Order No. 0-25 with respect to the proposed horns on Turbo-trains. (See page 1368, 56 B.T.C.)
- 122929 December 14 – Authorizing the removal of the speed limitation at the crossing of the Q.C.R. and the highway being the second crossing north of the station at Coleraine, P.Q. mileage 59.0 Quebec Subd.
- 122930 December 14 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and P.T.H. #4, being the first crossing east of the station at Bloom, Man. mileage 63.26 Rivers Subd.
- 122931 December 14 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway approx. two miles south of Oro, Ont. mileage 72.36 Newmarket Subd.
- 122932 December 14 – Revoking authority of Order 104023 which authorized the flammable liquid handling and storage facilities of Supertest Petroleum Corp'n. Ltd. near the C.N.R. at Joliette, P.Q. l'Assomption Subd.
- 122933 December 15 – Authorizing the C.N.R. to install signboards at the crossing of their railway and the highway near Balcarres, Sask. mileage 37.15 Qu'Appelle Subd.
- 122934 December 15 – Authorizing the C.N.R. to close the crossing of their railway and the highway at mileage 6.23 Warman Subd., City of Saskatoon, Sask. and to relocate the reflectorized crossing signs to another crossing of their railway at mileage 31.11 Blaine Lake Subd.
- 122935 December 15 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Arterial Road No. 11 in Tidenhead, N.B. mileage 0.09 St. Quentin Subd. and to relocate the reflectorized signs to another crossing of their railway at mileage 50.59 Caraquet Subd.
- 122936 December 15 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Fir Mountain, Sask. mileage 36.5 Wood Mountain Subd.
- 122937 December 15 – Authorizing the C.P.R. to remove the station agent and appoint a caretaker at Abernethy, Sask. mileage 18.1 Bulyea Subd.

- 122938 December 15 – Authorizing the C.N.R. to remove the caretaker at Inglewood, Ont. mileage 36.2 Beeton Subd.
- 122939 December 15 – Approving changes to the automatic protection at the crossing of C.N.R. and L'Islet-St. Adalbert Road at Bras d'Apic, P.Q. mileage 138.80 Monk Subd.
- 122940 December 15 – Amending Order 121999 which authorized the Department of Highways and Transportation of Saskatchewan to widen Highway No. 39 at the crossing of the C.N.R. in City of Weyburn, Sask. mileage 13.25 Weyburn Subd.
- 122941 December 15 – Approving City of Niagara Falls Ont. plans showing improvements to the north approach of Clifton Hill Ave. at the crossing of the N.Y.C.R. mileage 1.67 N.F. Main Line Subd.
- 122942 December 15 – Authorizing the City of Broadview, Sask. to improve the road at the subway under the C.P.R. at mileage 0.23 Indian Head Subd.
- 122943 December 15 – Approving tariffs and supplements to tariffs filed by the D.A.R. under sections 3 and 8 of the M.F.R.A.
- 122944 December 15 – Amending Order 121359 which authorized the Department of Highways and Transportation of Sask. to reconstruct Highway No. 5 at the crossing of the C.N.R. in the NE¼, Sec. 5, Twp. 44, Rge. 16, W3M City of North Battleford, Sask. mileage 0.25 of railway Industrial Spur commencing at mileage 81.30 Langham Subd.
- 122945 December 15 – Authorizing the Highways Department of Manitoba to reconstruct a portion of Provincial Road No. 221 at the crossing of the C.P.R. north of Sec. 20, Twp. 11, Rge. 2 East, in the R.M. of Rosser, Man. mileage 7.09 Carberry Subd. and authorizing the Railway to install automatic protection.
- 122946 December 15 – Revoking authority of Order 111217 which approved the location of flammable liquid storage and handling facilities of Stephen Fuels, near the C.N.R. at Bowmanville, Ont. mileage 1.18 Bowmanville Town Branch Spur.
- 122947 December 15 – Approving clearances on the C.N.R. siding serving the wood chip loading facilities of Silver Sawmills Ltd. commencing at mileage 68.83 Nechako Subd. at Vanderhoof, B.C.

- 122948 December 15 – Approving location of liquefied petroleum gas bulk marketing plant of Rockgas Propane Ltd. at Hazelton, B.C. near mileage 51.45 Bulkley Subd. C.N.R.
- 122949 December 15 – Approving location of additional storage and handling facilities of The British American Oil Co. Ltd. at Beardmore, Ont. near mileage 70.3 Kinghorn Subd. C.N.R.
- 122950 December 15 – Approving location of additional storage and transfer facilities of The British American Oil Co. Ltd. at Thompson, Man. near mileage 30.7 Thompson Subd. C.N.R.
- 122951 December 15 – Authorizing the C.N.R. to construct an extension of their Industrial lead track across Otter Street, in R.M. of Fort Garry, Man. mileage 3.84 Rivers Subd.
- 122952 December 15 – Authorizing the C.P.R. to remove the caretaker and the station building at Milan, P.Q. mileage 14.8 Megantic Subd.
- 122953 December 16 – Approving changes in the automatic protection at the crossing of The T.H. & B.R. and Highway No. 3A (River Road), in Coyle, Ont.
- 122954 December 16 – Approving changes to the automatic protection at the crossing of C.N.R. and Carleton Road in Nictaux, N.S. mileage 51.24 Middleton Subd.
- 122955 December 16 – Authorizing the C.N.R. to construct a siding to serve D.A. Clarke Veneers Ltd. crossing Broadway St. mileage 0.34 and Ema Ave. mileage 0.38, Town of South River, Dist. of Parry Sound commencing at mileage 188.46 Newmarket Subd.
- 122956 December 16 – Authorizing the C.P.R. to reconstruct the bridge over the Boyne River in the Town of Alliston, Twp. of Essa, County of Simcoe, Ont. mileage 45.3 MacTier Subd.
- 122957 December 16 – Authorizing the C.N.R. to remove the caretaker at Leslieville, Alta. mileage 77.0 Brazeau Subd.
- 122958 December 16 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Dist. Highway No. 524E at MacKay, Alta., mileage 92.26 Edson Subd.
- 122959 December 16 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Provincial Road No. 256, at Cromer, Man. mileage 60.13 Cromer Subd.

- 122960 December 16 — Authorizing the Quebec Department of Roads to construct the highway across the C.P.R. in Tabaret, Twp., Temiscamingue County, at mileage 69.76 Temiscaming Subd.
- 122961 December 16 — Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Provincial Road No. 475 in Foxwarren, Man. mileage 67.30 Bredenbury Subd.
- 122962 December 16 — Authorizing the C.N.R. to install automatic protection at the crossing of their railway and River Philip Road, in Cumberland County, N.S. mileage 50.28 Springhill Subd.
- 122963 December 16 — Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Gauthier Street, City of Joliette, P.Q. mileage 6.62 St. Gabriel Subd.
- 122964 December 16 — Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Provincial Road No. 401 at Birds Hill, Man. mileage 6.66 Lac du Bonnet Subd.
- 122965 December 16 — Authorizing the C.N.R. to make changes to the interlocking at the crossing of their railway and the C.P.R. at Inglewood, Ont. mileage 36.21 Beeton Subd. (C.N.R.) and mileage 19.8 Orangeville Subd. (C.P.R.)
- 122966 December 16 — Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Provincial Road No. 352 in Arden Ridge, Man. mileage 47.97 Minnedosa Subd.
- 122967 December 16 — Authorizing the D.A.R. to install automatic protection at the crossing of its railway and Old Post Road, in Digby County, N.S. mileage 14.92 Yarmouth Subd.
- 122968 December 16 — Authorizing the C.N.R. to install automatic protection at the crossing of their railway and St. Peters Road in Tracadie, P.E.I. mileage 11.59 Souris Subd. and to relocate the reflectorized signs to another crossing of their railway at mileage 23.96 Souris Subd.
- 122969 December 16 — Authorizing the C.N.R. to install automatic protection at the crossing of their railway and St. Pie Range Road, in the Parish of St. Adelphe, P.Q. mileage 63.94 La Tuque Subd.
- 122970 December 16 — Approving changes to the automatic protection at the crossing of C.N.R. and Carleton Street and Aberdeen Street, City of Fredericton N.B. mileage 69.80 Oromocto Subd.

- 122971 December 16 – Authorizing the C.P.R. to operate on the siding serving American Biltrite Rubber Company (Canada) Limited which leads from the industrial track commencing at mileage 8.57 MacTier Subd. and crossing Signet Drive in Lot 24, Con. 5WY, Twp. of North York, County of York, Ont.
- 122972 December 16 – Approving tariffs filed by the C.P.R. under section 8 of the M.F.R.A.
- 122973 December 16 – Approving By-law No. 2256 of the Township of Markham, Ontario which amends By-law No. 2244 prohibiting the sounding of engine whistles.
- 122974 December 16 – Approving location of additional relocated storage and transfer facilities of Shell Canada Limited at Lunder, Man. near mileage 73.80 Oak Point Subd. C.N.R.
- 122975 December 19 – Amending Order 110511 which authorized the British Columbia Department of Highways to construct a subway across and under the C.P.R. at mileage 116.02 Boundary Subd. replacing existing subway at mileage 116.01 Boundary Subd.
- 122976 December 19 – Authorizing the Township of Pittsburg, Ont. to improve the vision at the crossing of the C.N.R. and Township Road (Rideau Road), County of Frontenac, mileage 168.96 Kingston Subd.
- 122977 December 19 – Authorizing the Quebec Department of Roads to carry out improvements to the subway in the Village of Richelieu, County of Rouville, P.Q. mileage 43.21 Granby Subd. (C.N.R.)
- 122978 December 19 – Amending Order 116863 which authorized the C.N.R. to modify the automatic protection at the crossing of their railway and George Avenue, City of Windsor, Ont. mileage 104.49 Chatham Subd.
- 122979 December 19 – Revoking authority of Order 78286 which approved the location of handling and storage facilities of Canadian Oil Companies Limited near the C.P.R. at Shawinigan Falls, P.Q.
- 122980 December 19 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 122981 December 19 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and Toupin Blvd. in St. Laurent, P.Q. mileage 0.96 Montfort Subd.

- 122982 December 19 – Approving rail mounted liquefied petroleum gas transfer equipment for refueling wayside switch heater storage tanks of the C.P.R. at various locations on the Schreiber Division.
- 122983 December 19 – Authorizing the Quebec Department of Roads to construct a diversion of Ste-Therese Road, in the Mun. of Louis Joliet, County of Dorchester, P.Q. to eliminate the existing crossing of Ste-Therese Road over the C.N.R. mileage 199.69 Monk Subd.
- 122984 December 19 – Extending the time within which the N.Y.C. is required to install automatic protection at the crossing of its railway and Highway No. 3 near Caughnawaga, P.Q. mileage 53.7 Adirondack Jct. and Malone Subd.
- 122985 December 20 – Authorizing the Alberta Department of Highways to reconstruct and improve and relocate the subway carrying Highway No. 16. across and under the C.N.R. bet. Secs. 12 and 13, Twp. 53, Rge. 23 W4M near Bremner, Alta. mileage 255.5 Wainwright Subd.
- 122986 December 20 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Bethlehem Spur, mileage 1.14 which junctions with the Marmora Subd. at mileage 1.31 and County Road No. 4 (Talbot St.), in Picton, Ont.
- 122987 December 20 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Belle River South Road, in Ste-Scholastique, P.Q. mileage 32.48 Lachute Subd.
- 122988 December 20 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway at mileage 1.93 Bethlehem Spur which junctions with the Marmora Subd. at mileage 1.31 and County Rd. No. 5 (Johnston St.), in Picton, Ont.
- 122989 December 20 – Approving location of additional flammable liquid bulk storage and handling facilities of Shell Canada Limited at Middle Lake, Sask. near mileage 49.0 Prince Albert Subd. C.P.R.
- 122990 December 20 – Approving location of temporary refueling facilities for container and truck trailer heater systems of C.N.R. at the lower express yard Toronto terminals, Ont.
- 122991 December 20 – Approving the location of additional bulk storage and transfer facilities of The British American Oil Company Limited at Kenora, Ont. near mileage 146.17 Ignace Subd. C.P.R.

- 122992 December 20 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway, being the third crossing south of the station at Bradford, Ont. mileage 39.66 Newmarket Subd.
- 122993 December 20 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. at mileage 54.41 Dundas Subd., Ont.
- 122994 December 20 – Authorizing the removal of the speed limitation at the crossing of Old Weston Road, Toronto, Ont. and the C.N.R. mileage 4.99 Weston Subd.
- 122995 December 20 – Authorizing the removal of the speed limitation at the crossing of McLeod Road and the N.Y.C. in Niagara Falls, Ont. mileage N.F. 3.16.
- 122996 December 20 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway near Ituna, Sask. mileage 31.33 Watrous Subd.
- 122997 December 20 – Approving supplement No. 1 to tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122998 December 20 – Approving supplements to Agreed Charge tariff filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 122999 December 20 – Authorizing the C.P.R. to replace the steel bridge at mileage 36.8 Quebec Subd. of the Q.C.R. with a standard E50 timber trestle 45 ft. in length.
- 123000 December 20 – Authorizing the Alberta Department of Highways to reconstruct and widen Grandin Ave. at the crossing of the C.N.R. in the Town of Morinville, Alta. mileage 20.75 Athabasca Subd. and authorizing the railways to install automatic protection at the crossing.
- 123001 December 20 – Authorizing the Quebec Department of Roads to widen Route de la Traverse at the crossing of the C.N.R. in the Mun. of St. Remi, Parish, Portneuf County, mileage 24.04 Linton Subd. and authorizing the Railways to install automatic protection at the crossing.
- 123002 December 20 – Authorizing the C.N.R. to modernize the automatic protection at the crossing of their railway and Cannifton Road, City of Belleville, Ont. mileage 220.96 Kingston Subd.

- 123003 December 20 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and De Varennes St. in Boucherville, P.Q. mileage 9.18 Sorel Subd. and to relocate the reflectorized signs to another crossing at Hall St. in Farnham, mile 0.10 Railway Yard track off mile 28.30 W. Shefford Subd.
- 123004 December 20 – Authorizing the Ontario Department of Highways to re-construct and widen Highway No. 545 at the crossing of the C.N.R. near Hanmer, Twp. of Capreol, Dist. of Sudbury, Ont. at mileage 271.52 Bala Subd. and the Railways to relocate the automatic protection.
- 123005 December 20 – Authorizing the British Yukon Railway Company to install automatic protection at the crossing of its railway and Second Ave. in Whitehorse, Y.T. mileage 110.0 White Pass and Yukon Route.
- 123006 December 20 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Town Line Road bet. Twps. of Essa and Innisfil, Ont. mileage 3.00 Meaford Subd.
- 123007 December 21 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway, being the first public crossing west of the station at Langbank, Sask. mileage 113.44 Cromer Subd.
- 123008 December 21 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and St. Elzear Blvd. (St. Martin Jct.), City of Laval, P.Q. mileage 13.78 Park Ave. Subd.
- 123009 December 21 – Authorizing the City of Moose Jaw, Sask. to construct a pedestrian walkway across the C.N.R., at mileage 41.42 Central Butte Subd.
- 123010 December 21 – Authorizing the C.N.R. to operate on the bridge over the Red River Floodway at mileage 143.57 Sprague Subd., Man.
- 123011 December 21 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and the Taschereau-Laferte Road in Taschereau, P.Q. mileage 4.80 Rouyn Subd.
- 123012 December 21 – Authorizing the C.N.R. to make changes to the signal system on their Caramat Subd. at Nakina, Ont. and exempting them from Clause 53(1) of G.O. No. E-14 in respect to the main track at the siding at mileage 131.30 Caramat Subd.

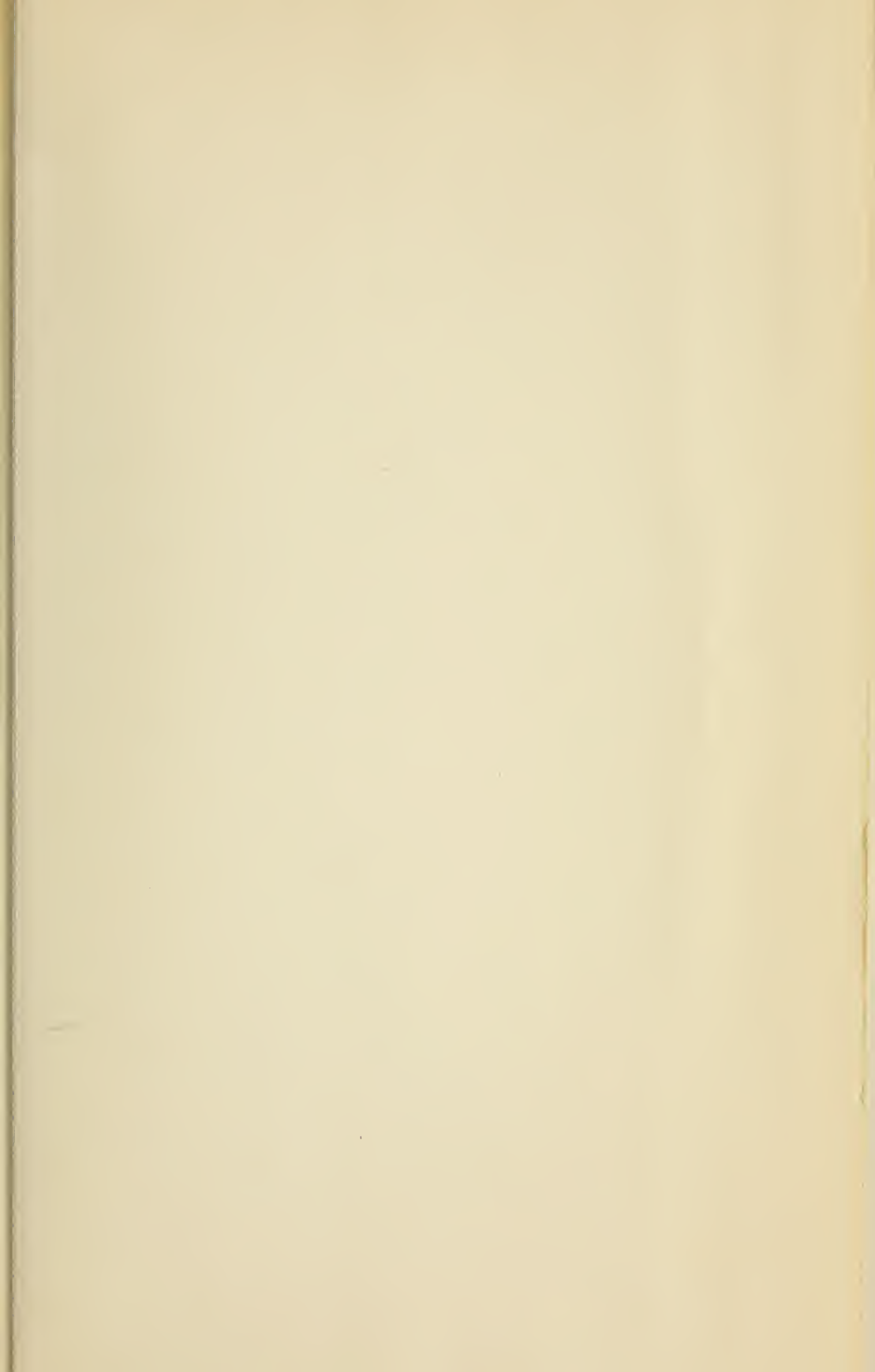
- 123013 December 21 – Authorizing the C.P.R. to operate under the overhead bridge carrying Westney Road across and over its track at mileage 184.69 Belleville Subd., Ont.
- 123014 December 21 – Approving tariff and supplement No. 8 to Agreed Charge filed by C.P.R. under sections 3 and 8 of the M.F.R.A.
- 123015 December 21 – Approving tariff and supplements to Agreed Charge filed by the Canadian Freight Association under sections 3 and 8 of the M.F.R.A.
- 123016 December 22 – Authorizing the removal of the speed limitation at the crossing of the C.P.R. and the highway at St. Scholastique, P.Q. mile 32.67 Lachute Subd.
- 123017 December 22 – Authorizing the C.N.R. to construct a subway at mileage 47.4 Bruce Lake Branch, Ont.
- 123018 December 22 – Amending Order 119999 which approved the location of flammable liquid storage facilities of Imperial Oil Limited at Hodgeville, Sask. near mileage 103.91 Gravelbourg Subd. C.N.R.
- 123019 December 22 – Approving location of flammable liquid bulk storage and transfer facilities of the Rock Transport Limited at C.N.R.'s Turcot Yard, Montreal, P.Q. near mileage 4.62 Montreal Subd.
- 123020 December 22 – Extending the time within which the C.P.R. is required to install automatic protection at the crossing of its railway and the Township Road bet. Lots 18 and 19, Con. 11, Twp. of North Dumfries, Ont., mileage 60.90 Galt Subd.
- 123021 December 22 – Authorizing The Bell Telephone Company of Canada to relocate its buried cable bet. Eglinton Ave. and Lawrence Ave., Mun. of Metropolitan Toronto, Ont. to provide for the construction of the Spadina Expressway.
- 123022 December 22 – Approving location of flammable liquid bulk marketing plant of Texaco Canada Limited at Trois Rivières, P.Q. near mileage 0.73 Three Rivers Loop Line, C.P.R.
- 123023 December 22 – Authorizing the removal of the speed limitation at the crossing of the highway and the C.N.R. near Kapuskasing, Ont. mileage 66.23 Kapuskasing Subd.
- 123024 December 22 – Approving location of flammable liquid bulk storage and transfer facilities of Imperial Oil Limited at Vallee Junction, P.Q. near mileage 100.53 Quebec Subd. C.P.R.

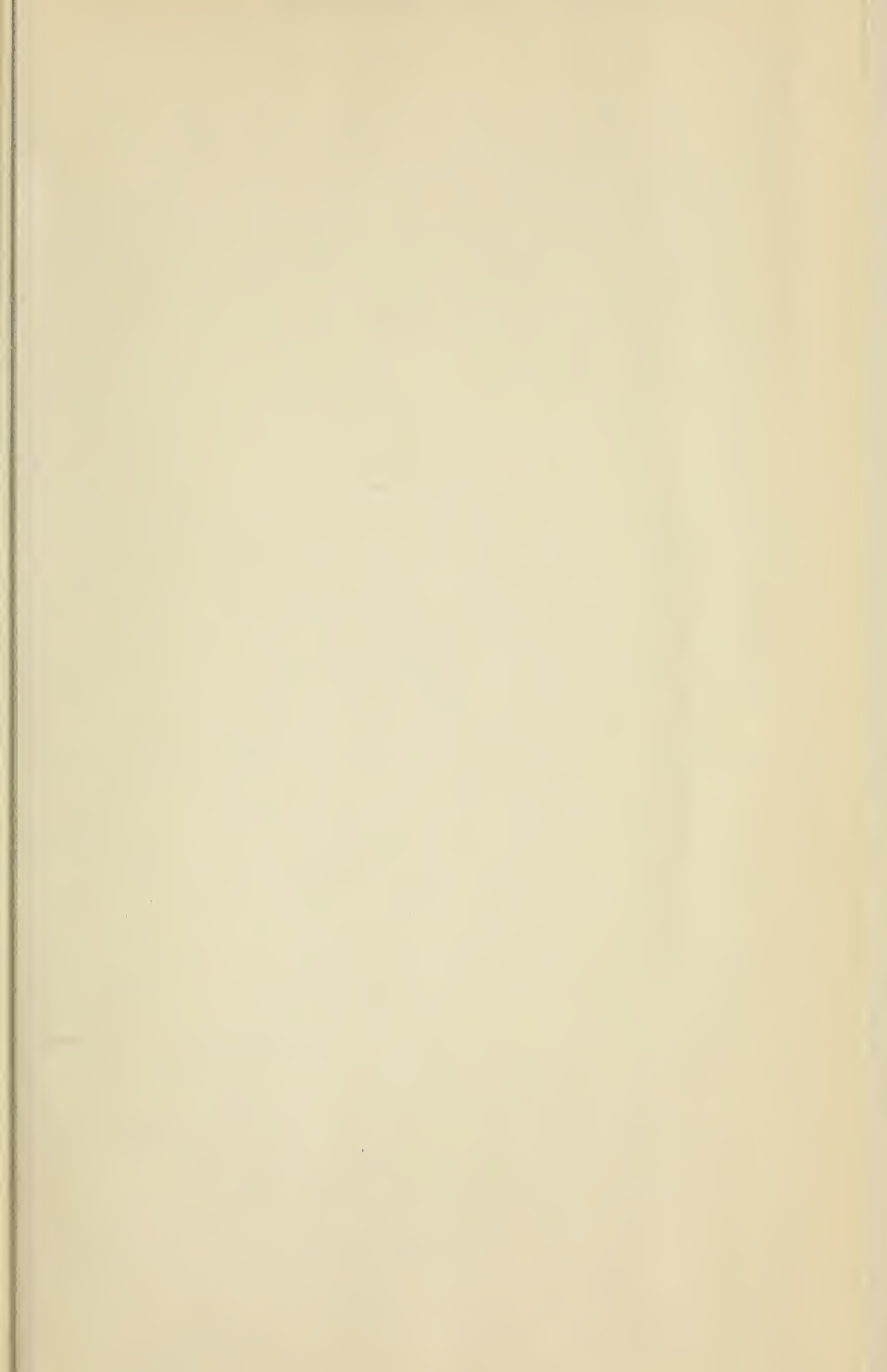
- 123025 December 22 – Approving the location of additional flammable liquid bulk storage and piping facilities of Shell Canada Limited at Shawinigan P.Q. near mileage 21.09 St. Maurice Subd.
- 123026 December 22 – Authorizing the Township of Chinguacousey, Ont. to improve the approaches of the highway at the crossing of the C.P.R. in the Twp. of Chinguacousy, at mileage 18.40 Orangeville Subd. and authorizing the Railway to install automatic protection at the crossing.
- *123027 December 22 – Disallowing increased freight rates on coal and coke, filed by C.N.R., C.P.R. and The Cumberland Railway Company, under the M.F.R.A., published and filed in tariffs to become effective Oct. 12, 1966 (See page 1369, 56 B.T.C.)
- 123028 December 23 – Authorizing the Township of Artemesia, Ont. to widen the Township Road bet. lots 30 and 31, Con. 1 N.D.R., and Durham Road at the crossing of the C.P.R. in Lot 31, bet. Conc. 1 N.D.R. and Con. 1 S.D.R. at mileage 1.91 and 1.87 Walkerton Subd. respectively and authorizing the Railway to remove the bell and danger sign located between the two crossings.
- 123029 December 23 – Approving location of the flammable liquid bulk storage and handling facilities of Imperial Oil Limited at Chester, N.S. near mileage 47.79 Chester Subd. C.N.R.
- 123030 December 23 – Authorizing The Chesapeake and Ohio Railway Co. to install automatic protection at the crossing of their railway and Lambton County Road No. 2, bet. Concs. 11 and 12, Twp. of Sombra, County of Lambton, mileage 53.7 No. 2 Subd.
- 123031 December 23 – Authorizing the N.Y.C. to install automatic protection at the crossing of their railway and Town Line Road in Lot 28, Con. 11, Twp. of Dereham, and Lot A, Con. 12 in the Twp. of South Dorchester, Ont. mileage 98.88 Main Line Subd.
- 123032 December 23 – Authorizing the C.P.R. to install automatic protection at the crossing of its railway and Pine Street, in the Village of Calumet P.Q. mileage 59.68 Lachute Subd.
- 123033 December 23 – Approving tariffs filed by The Bell Telephone Company of Canada.
- 123034 December 27 – Authorizing the C.N.R. to construct a pedestrian underpass across and under their tracks at Mimico station County of York, Ont. at mileage 6.76 Oakville Subd.

- 23035 December 27 – Exempting the C.P.R. from erecting fences between certain mileages on its Vanguard Subd., Sask.
- 23036 December 27 – Amending Order 120074 which authorized the United Townships of Head, Clara and Maria to reconstruct the Township road at the crossing of the C.P.R. bet. Lots 54 and 55, Con. B, Twp. of Maria, Ont. mileage 37.6 North Bay Subd.
- 23037 December 27 – Exempting the C.P.R. from erecting fences on the west side of its Melfort Subd. bet. mileage 26.30 and 26.69, Sask.
- 23038 December 27 – Authorizing the C.P.R. to close the crossing of its railway and the highway at mileage 24.2 Lyleton Subd., Man.
- 23039 December 28 – Authorizing the Nova Scotia Department of Highways to construct an overpass to carry the Trans-Canada Highway across and over the C.N.R. in the County of Pictou, N.S. mileage 1.53 on the spur to Scott Maritimes Ltd., H.B. at mileage 71.41 Oxford Subd.
- 23040 December 28 – Authorizing the National Capital Commission to construct a pedestrian overhead bridge at Young St. across and over the C.P.R., City of Ottawa, Ont. at mileage 0.79 Prescott Subd.
- 23041 December 28 – Authorizing the C.N.R. to install automatic protection at the crossing of the highway and the C.N.R. at mileage 134.08 Renfrew Subd., Ont.
- 23042 December 28 – Authorizing the C.N.R. to install automatic protection at the crossing of their railway and Montee Guenette, Parish of Saint Antoine des Laurentides, P.Q. at mileage 27.74 Montfort Subd.
- 23043 December 28 – Approving C.P.R. restricted clearances caused by the construction of falsework during the construction of the overhead bridge at mileage 119.14 Nipigon Subd., in the Mining location 16E, Twp. of McGregor, Dist. of Thunder Bay, Ont.
- 23044 December 28 – Authorizing the C.P.R. to operate under the dual overhead bridge carrying the North Shore Autoroute over the C.P.R. in the Mun. of the Parish of St. Thomas de Joliette, P.Q. mileage 32.5 Trois Rivières Subd.
- 23045 December 29 – Authorizing the release of information re C.N.R. accident at the crossing of their railway and Romeo Street, City of Stratford, Ont. mileage 87.95 Guelph Subd. (See page 1370, 56 B.T.C.)

- 123046 December 29 – Approving location of C.N.R. Diesel fuel oil bulk storage and transfer facilities near mileage 3.27 Walkley Line, Walkley Yard, Ottawa, Ont.
- 123047 December 29 – Extending the time within which the C.P.R. is required to install automatic protection at the crossing of its railway and the highway in Lot 2, Con. 2, Twp. of Essa, Ont. mileage 45.84 MacTier Subd.
- 123048 December 29 – Authorizing the removal of the speed limitation at the crossing of the C.N.R. and the highway being eight hundred feet east of the station at Mikado, Sask. mileage 16.42 Margo Subd.
- 123049 December 29 – Revoking authority of Orders Nos. 75055 and 89466 which approved the location of flammable liquid storage facilities of C.N.R. at Niagara Falls, Ont.
- 123050 December 30 – Authorizing the Highways Department of the Province of Manitoba to construct Provincial Road No. 482 across and under the C.N.R. at mileage 20.12 Tonkin Subd.
- *123051 December 30 – Suspending amendments to C.N.R. Tariff C.T.C.(F) No. E.3867 and C.P.R.'s C.T.C. No. E.5172, filed to become effective January 2, 1961, applying on bulk grain, carloads for export, until June 30, 1967, (See page 1372, 56 B.T.C.)

Note: This issue concludes Volume 56 B.T.C.







BINDING SECT. SEP 20 1968

